

APPRAISAL OF THE RIGHTS OF MENTAL HEALTH PATIENTS IN NIGERIA

SUBMITTED

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(2020/LW/12810)

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**BEING A PROJECT SUBMITTED TO THE FACULTY OF LAW, ALEX EKWUEME
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DECLARATION

I, CHUKS-AMACHA GLORY a student of the Faculty of Law, Alex Ekwueme Federal University, Ndufu-Alike, Ikwo, Ebonyi State, do hereby declare on my honour, that this project has not been previously presented, either wholly or in part for the award of any other Degree, Diploma, Certificate or Publication in any University, other Higher Institutions or elsewhere.

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CERTIFICATION

CHUKS-AMACHA GLORY, a student of Faculty of Law has satisfactorily completed the requirements for the award of the Degree of Bachelor of Laws. To the best of our knowledge, the work embodied in this project is original and has not been submitted in part or full for any other Degree, Diploma, Certification or Publication of this University or elsewhere.

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DEDICATION

This work is dedicated to all young people in this generation battling with mental health challenges.

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LIST OF ABBREVIATIONS

Abbreviation	Full Meaning
ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
CAMA	Companies and Allied Matters Act
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFRN	Constitution of the Federal Republic of Nigeria
CPA	Care Programme Approach
CRA	Child Rights Act
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECT	Electroconvulsive Therapy
FMoH	Federal Ministry of Health
FNPHs	Federal Neuro-Psychiatric Hospitals
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LMIC	Low- and Middle-Income Country
MANI	Mentally Aware Nigeria Initiative
NGO	Non-Governmental Organization
NHA	National Health Act
NHRC	National Human Rights Commission
NHS	National Health Service (UK)
PHC	Primary Health Care
PTSD	Post-Traumatic Stress Disorder
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
VAPP	Violence Against Persons (Prohibition) Act
WHO	World Health Organisation

ABSTRACT

The rights of mental health patients in Nigeria remains a significant social and legal issue, often leading to discrimination, social exclusion, and the denial of fundamental rights. This research critically examined the phenomenon from a legal perspective, exploring the existing legal frameworks and their effectiveness in protecting the rights of individuals with mental health conditions. The study is aimed at appraising the rights of mental health patients in Nigeria. This research employed doctrinal methodology, anchored on appraisal and comparative analysis. In the course of the research, it was found that there are inadequate legal framework protecting the rights of mental health patients. In addition, there is weak enforcement of the extant mental health laws, inadequate mental health infrastructure, and low public awareness of the legal rights. To address these issues, the research recommends, that the constitution be amended, to provide the right to mental health as an enforceable right in Nigeria. In addition, special courts that can entertain and adjudicate all matters relating to mental health should be established. Ultimately, the research highlighted that although there is paucity of extant legal framework protecting the rights of mental health patients, the enforcement of the relevant extant laws remains a challenge, hence, the need for stronger enforcement mechanisms, increased advocacy, and a shift in societal attitudes toward mental health. The role of the law in mitigating stigma and fostering a more inclusive society is emphasized as a critical step toward achieving mental health justice in Nigeria.

Key words: Mental Health, Rights, Appraisal, Patients, Nigeria.

CHAPTER ONE

INTRODUCTION

The most succinct definition of health was given in the preamble of the World Health Organisation's (WHO) Constitution, it defined Health as 'A state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'.¹ It goes further to state that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. The health of all persons is fundamental to the attainment of peace and security and is dependent upon the fullest cooperation of individuals and States. The achievement of any State in the promotion and protection of health is of value to all.²

There is a preponderance of adversity in Nigerian society, which regularly threatens Nigerians' mental health and well-being. Such adverse conditions include, among others, a high poverty rate, a high unemployment rate, economic and religious instability, traumatic events, human rights violations, and a deeply established belief in supernatural illness.³

Even worse are the challenges bedeviling people living with mental health conditions such as stigma, discrimination, inadequate legal protection, inadequate rehabilitation facilities, among many others. There is a vast number, running into millions of persons suffering some form of mental health challenge in Nigeria. Unfortunately, many of these persons have little recourse

¹ World Health Organisation, 'Preamble to the Constitution of WHO as adopted by the International Health Conference', [1946] available at <<https://www.who.int/about/governance/constitution>>, accessed on 12 May 2025.

² O Maryam, Appraisal of the Legal Framework on Mental Health in Nigeria, [2023] available at <<https://www.researchgate.net/publication374259786>>, accessed 12 May 2025.

³ OA Bangboye, IA Hassan and others, 'Towards Improving Pharmaceutical Policy Practice', [2021] available at <<https://doi.org/10.1186/s40545-021-00316-9>>, accessed on 12 May 2025.

in terms of treatment, protection of their rights, rehabilitation or other support. Mental health remains one of the most neglected areas of health in Nigeria.⁴

This study focuses exhaustively on the rights of these mental health patients, the enforcement mechanisms for these rights, the limitations, in addition to understanding the laws guiding mental health, the implementation and execution. In addition, this study endeavours to offer insights that can further inform policy interventions aimed at enhancing the effectiveness and inclusivity of mental healthcare in the country.

1.1 Background of Study

Mental health remains a critical yet often overlooked aspect of healthcare in Nigeria. Despite the growing awareness of mental health issues globally, individuals suffering from mental disorders in Nigeria continue to face significant challenges. These challenges are faced by a significant number of individuals and keeps increasing at an alarming rate, due to ignorance, lack of treatment and care etc. The main justification for this study is to raise alarm on these issues and suggest possible reforms.

Mental illnesses greatly affect the individual, the family and society at large. Individuals suffering from mental disorders struggle with varied symptoms such as delusions, hallucinations, manic episodes, impaired cognitive function, low self-worth, sadness amongst others.⁵Family members of persons with mental disorders usually act as carers for such persons, and often bear the financial burden of treatment of the disorder, in addition to providing emotional and physical support.⁶They also undergo stress and face stigma and discrimination

⁴ O Cheluchi, 'Stigma and Mental Health in Nigeria: Some Suggestions for Law Reform', *Journal of Law, Policy and Globalization* [2016] (55) 63-64.

⁵World Health Organization, 'Mental Disorders', available at <<https://www.who.int/news-room/factsheets/detail/mental-disorders>>, accessed 23 May 2025.

⁶World Health Organization, 'The World Health Report 2001 – Mental Health: New Understanding, New Hope', available at <<https://iris.who.int/handle/10665/42390>>, accessed 23 May 2025.

from members of the community. The impact of mental illnesses further extends to the society, leading to economic loss owing to reduced productivity.⁷

Sadly, in spite of the relevance of mental health and the effects of mental illness, these concepts have been largely misunderstood and disregarded throughout time. In the past, persons suffering from mental disorders were regarded as ‘demon possessed’, ‘insane’, ‘mad’ or ‘lunatic’. They were ostracised from society and chained in their homes, kept in workhouses of the church and eventually in lunatic asylums.⁸ Mentally ill persons were also subjected to varying forms of painful and inhumane treatments including hot and ice-cold-water therapies, electroconvulsive therapy (ECT) and restraint through chains or cages.⁹

However, the mid-twentieth century witnessed a change in the approach to caring for the mentally ill. The introduction of antipsychotic drugs as a mode of treatment for mental illnesses led to the obsolescence of treatments such as hydrotherapy and insulin shock therapy.¹⁰ The concept of lunacy faded away as more forms of mental illness were recognised.¹¹

Historically, mental health legislation in Nigeria has been outdated and ineffective in safeguarding the rights of mental health patients. In tracing the history of the legal framework on mental health in Nigeria, it is instructive to pause to reflect on where the journey of making laws to protect the interests of people suffering from Mental Illness started in the world and to get a measure of the difference between a lunacy law, and a mental health law. The original

⁷OO Fajaolu, ‘An Indepth Review of Mental Health Legislations and Policies in Nigeria: A Case for Immediate Law Reform in Line with International Best Practices’, [2021] available at <<https://ssrn.com/abstract=4079665>>, accessed on 23 May 2025.

⁸Sunrise House Treatment Centre ‘The History & Evolution of Mental Health & Treatment’, [2024] available at <<https://sunrisehouse.com/research/history-evolution-mental-health-treatment/>> accessed 23 May 2025.

⁹CVLT Nation, ‘Horrible Psychiatric Treatments From The Age Of Reason’, [2020] available at <<https://cvltnation.com/horrifying-psychiatric-treatments-from-the-age-of-reason/>> accessed 23 May 2025

¹⁰ RK Hani, ‘The 21st Century Psychiatrists Need to Re-establish Their Identity as Healers of the Human Psyche and not just Pill Pushers’, *Contemporary Behavioural Health Care Journal*[2016] (2) (1).

¹¹ W Jane, ‘Managing Mental Incapacity in the 20th Century: A History of the Court of Protection of England & Wales’, *International Journal of Law and Psychiatry*, [2020] (10).

Lunacy Act came into being in the United Kingdom in 1890.¹² It has undergone several transformations since then. Vigorous advocacy led by the Royal College of Psychiatrists, and several NGOs, as well as changing perceptions and sensitivity in society have led to regular revisions of the law. As recently as January 2021, the Government of the United Kingdom put out a white paper containing wide-ranging proposals for the reform of the Mental Health Act 1983 (as amended in 2007).¹³

It is an area of continuous engagement between the government, the mental health profession, and society at large. The changes in the law reflect and accommodate developments in science and evolving sensitivities in society itself. The Nigerian legislation, which was in force during the colonial era, was known as the Lunacy Ordinance of 1916. It derived its roots, and its knowledge base, or lack of it, from the Lunacy Act of 1890 in England. In 1958, it underwent some minor tinkering and was renamed the Lunacy Act. In essence, up-till-the-moment President Muhammadu Buhari appended his signature to a new document, this faulty, archaic piece of legislation was evidence that Nigerians saw mental illness as a monolithic and rather abhorrent entity, instead of hundreds of different diagnoses with different causations and trajectories, like physical illness.¹⁴

The Mental Health Act, which repealed the Lunacy Act of 1958, was signed into law on 5th January 2023.¹⁵ Before the 5th of January 2023, the law guiding the protection of mental health in Nigeria was the Lunacy Act 1958, this law was not only archaic but oppressive; it failed to recognise basic human rights, and stripped persons living with mental health conditions of their

¹² A Takabayashi, 'Surviving the Lunacy Act of 1890: English Psychiatrists and Professional Development during the Early Twentieth Century', [2017] available at <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5426304>> accessed on 25 May 2025.

¹³ K Garrat, 'Reforming the Mental Health Act', [2023] available at <<https://commonslibrary.parliament.uk/research-briefings/cbp-9132>> accessed on 25 May 2025.

¹⁴ F Olugbile, 'At last, a modern Mental Health Law for Nigeria', [2023] available at <<https://businessday.ng/columnist/article/at-last-a-modern-mental-health-law-for-nigeria/>> accessed on 25 May 2025.

¹⁵ Lunacy Act 1958, Cap. 112.

autonomy to make key decisions¹⁶This Act is a significant legal reform of the framework for mental healthcare services and substance abuse care in Nigeria, while also delving into the manner in which the larger society deals with mental ill-health.¹⁷

People with mental health conditions face barriers to accessing basic healthcare services¹⁸, involuntary commitment; lack of access to quality healthcare, human rights violations, and social ostracizing. Sometimes, in the name of providing healthcare, these vulnerable persons were subjected to exploitation, as well as mental and physical abuse, due to the laxity of laws.¹⁹The absence of the enforcement of adequate legal safeguards has often led to cases of abuse, including unlawful detention, forced treatment, and denial of basic rights such as dignity, privacy, and informed consent. The intersection between mental health and human rights necessitates the enforcement of a comprehensive legal framework that guarantees protection, rehabilitation, and reintegration of affected individuals into society.

This study aims to critically appraise the rights of mental health patients in Nigeria, examining the effectiveness of existing laws and policies in safeguarding these rights. It will assess the extent to which the Mental Health Act 2023 aligns with international best practices and human rights standards. Furthermore, the research will explore the role of healthcare institutions, the judiciary, and non-governmental organizations in promoting and enforcing the rights of mental health patients.

By identifying the gaps in the current legal framework and proposing reforms where necessary, this study will contribute to the ongoing discourse on mental health law in Nigeria. It is hoped that the findings of this research will enhance the protection and recognition of the rights of

¹⁶*Ibid* (n 2).

¹⁷ O Opawoye, 'A Review of the Metal Health Act', [2023] available at <www.jee.africa> accessed at 25 May 2025.

¹⁸*Ibid* (n 17).

¹⁹*Ibid* (n17).

mental health patients, thereby fostering a more inclusive and humane approach to mental health care in Nigeria.

1.2 Statement of the Problem

Nigeria, with a population of approximately 180 million, confronts a notable predicament concerning mental health, with an estimated 20% of its populace experiencing various forms of mental health issues.²⁰ This substantial proportion translates to a considerable number of several million individuals grappling with mental health challenges within the country. Despite Nigeria's categorisation as a low- and middle-income country (LMIC), aligning with the status of more than 80% of the global population, a mere fraction of less than 10%, of those affected can access appropriate mental healthcare and treatment.²¹ Tragically, a significant number of these individuals encounter notable obstacles in accessing requisite treatments, safeguarding their rights, securing rehabilitation services, or obtaining other essential support.²² This predicament underscores the persistent neglect of mental health as a crucial facet of healthcare in the Nigerian context.

The WHO reported that Nigeria has the highest number of depression cases in Africa.²³ WHO Global Health Estimates also recorded that 7019 people in Nigeria committed suicide in 2019.²⁴ In addition, the plummeting decline of the economic situation, lack of basic amenities and poor standard of living of the majority living below the average income level, adds to increase in depression and mental health challenges.

²⁰*Ibid* (n 4).

²¹ IP Okafor, DV Oyewale, C Ohazurike, and others, 'Role of Traditional Beliefs in the Low Dwelling Women in Western Nigeria', *Afr J Prim Health Care Fam Med journal*, [2022] (1) (14).

²² UP Ugochukwu, 'Policy Analysis on Nigerian Lunacy Act (1958): The need for a New Legislation', *Journal of Psychiatry* [2015] (1) (19).

²³O Raphael, MO Nnenna, and others, 'Situation Report on Suicide in Nigeria', *Journal of Psychiatry* [2020] (5).

²⁴World Health Organisation, 'Suicide worldwide in 2019: Global Health Estimates', [2019] available at <<https://www.who.int/publications/i/item/9789240026643>>, accessed on 25 May 2025.

In a report by The PUNCH, no fewer than 79 persons committed suicide in Nigeria in 2022.²⁵ According to the Association of Psychiatrists in Nigeria, there are currently only 250 Psychiatrists in the country, for a population of over 200 million people.²⁶ There are lack of skilled and certified counselors World Health Organization specialize in mental health. There is also a high level of ignorance, religious and cultural prejudice, stigma, and discrimination associated with mental health and mental illness. Mental illness is viewed by many as a spiritual affliction, causing them to turn to spiritual or traditional healers rather than seek medical treatment.²⁷ In some parts of the country, persons with severe mental health disorders are chained, forced to receive treatment, and made to dwell in poor living conditions.²⁸

In addition, though the new Mental Health Act 2021 makes provisions for these issues, it has considerable flaws that may hinder implementation. Parts of it lack clarity and other parts are somewhat overzealous in safeguarding the mentally ill, thus potentially defeating its purpose.²⁹

Research Questions

To appraise the rights of mental health patients in Nigeria, the research questions are as follows:

1. What is the current situation of mental health in Nigeria?
2. What are the rights that accrue to mental health patients in Nigeria?
3. What are the policies and legislation that provide for these rights?

²⁵ I Chijioko, 'Suicide: How Harsh Economic Realities Spike Depression, Mental Illness', [2023] available at <https://punchng.com/suicide-how-harsh-economic-realities-spike-depression-mental-illness/> accessed on 28 May 2025.

²⁶ Association of Psychiatrists in Nigeria, 'Home', [2024] available at <http://www.apn.org.ng/#home> accessed 28 May 2025.

²⁷ BBC News, 'Why some Nigerian families lock up children and the mentally ill', [2023] available at <https://www.bbc.com/news/world-africa-53893271> accessed 28 May 2025.

²⁸ Nigeria Health Watch, 'Nigeria: People With Mental Health Conditions Chained, Abused', [2019] available at <https://www.hrw.org/news/2019/11/11/nigeria-people-mental-health-conditions-chained-abused> accessed 28 May 2025.

²⁹ *Ibid* (n 17).

4. To what extent has the legislation been enforceable and effective if compared to international practices?

1.3 Aims and Objectives of the Study

The main aim of this study is to critically appraise the rights of mental health patients in Nigeria and access the enforceability to ensure adequate legal, medical, and social safeguards for individuals with mental health conditions.

The Specific Objectives are:

1. To analyse what the current situation of mental health in Nigeria is and its effectiveness in enforcement.
2. To appraise the rights that accrue to mental health patients in Nigeria and the subsisting laws that provides for them.
3. To examine the policies and legislation that provides for these rights.
4. To evaluate the extent the legislation have been enforceable and effective if compared to international practices.

1.4 Scope and Limitations of the Study

This study focuses on the appraisal of the rights of mental health patients in Nigeria. The geographical scope is limited to Nigeria, examining the legal, institutional, and social frameworks that affect the rights of individuals with mental health conditions. The study covers the relevant national legislation, such as the Mental Health Act 2021, and international legal instruments that impact mental health policies in Nigeria. It also assesses the role of the judiciary, healthcare institutions, and human rights organizations in protecting these rights.

However, this study does not cover all aspects of mental health law globally or delve into comparative analyses beyond selected jurisdictions. While international perspectives are

referenced, the primary focus remains on Nigeria's legal framework. Due to constraints such as time, financial resources, and logistical challenges, extensive field research or empirical data collection could not be conducted. The study is largely based on legal analysis, policy evaluation, and secondary data sources.

The limitations of this research include inadequate funds, which restricted the ability to conduct nationwide surveys or interviews. The time frame allocated for this research was also a limiting factor, affecting the depth of analysis that could be undertaken. Additionally, challenges such as limited access to mental health patients for direct testimonials and difficulties in obtaining comprehensive government records further impacted the study. These constraints, however, do not undermine the validity of the research; rather, they highlight the need for further studies with broader scope and deeper empirical analysis.

1.5 Significance of the Study

This study has both theoretical and practical significance. Theoretically, the study contributes to legal scholarship and human rights advocacy. The research will contribute to existing legal literature by critically analysing the legal and institutional framework governing mental health rights in Nigeria. By evaluating the Nigerian Mental Health Act 2021 and other relevant laws, the study will highlight legal gaps, the need for policy reforms and the creation of additional laws to align Nigeria's mental health laws with international best practices. In the practical significance of the study, it will examine the root causes of stigma, including cultural and religious beliefs, lack of awareness, and negative media representation. By doing so, it aims to recommend legal and social interventions to protect mental health patients from discrimination and uphold their fundamental human rights.

The study will further assess the role of institutions such as the judiciary, healthcare regulatory bodies, and human rights commissions in safeguarding the rights of mental health patients. It

will also explore challenges in enforcement, such as inadequate infrastructure and insufficient public awareness of legal protections.

Overall, this study is relevant not only for legal scholars but also for policymakers, mental health professionals, and human rights advocates. By appraising the rights of mental health patients in Nigeria, it aims to bridge the gap between legal provisions and actual enforcement, ultimately promoting a more inclusive and rights-based approach to mental healthcare in Nigeria.

1.6 Research Methodology

The study adopted a doctrinal research method, to comprehensively analyse primary and secondary sources relevant to the research, ranging from legislation, statutes, textbooks, articles, periodicals, legal commentaries, policies, and judicial decisions on mental health. The primary sources include National Mental Health Act 2021, the 1999 Constitution as amended, Criminal Code 1916, Lunacy Act 1958, and treaties, conventions, case laws amongst others. The secondary sources include books articles in journals and other scholarly publications. Finally, in the process of carrying out extensive research on this subject, it shall adopt a comparative approach by referring to international documents relating to mental health in a bid to highlight the strengths and inadequacies of the current framework, by identifying mental health policies and legislation in other countries in an attempt to highlight best practices and make appropriate recommendations regarding Nigerian laws and policies on the subject.

1.7 Chapter Analysis

This chapter provides an overview of the study, including the background, statement of the problem, aims, and objectives. It outlines the scope, significance, methodology, and chapter breakdown, setting the stage for the research. This chapter defines key concepts such as mental

health, rights and stigmatization, while exploring theories relevant to mental health rights. It also reviews existing literature on the subject to provide a theoretical foundation for the study. This chapter examines the legal framework governing mental health in Nigeria. It shall look into the legal, institutional, political, religious and social-cultural impediments of the National Mental Health Act 2021, and the ability of this law to achieve its aims and objectives. It also discusses international legal instruments and how they influence Nigeria's mental health policies. This chapter explores the causes, manifestations, and legal implications of mental health Rights. It also examines the accountability of healthcare institutions and compares Nigeria's mental health laws with those in developed countries. The final chapter summarizes the study, highlights key findings, and provides recommendations for legal reforms, awareness campaigns, and healthcare improvements to protect the rights of mental health patients in Nigeria.

CHAPTER TWO

CONCEPTUAL CLARIFICATION, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Conceptual Clarification

The researcher will at this section clarify some important concepts relevant to the study.

2.1.1 The Concept of Health

Various views of health exist in the literature and in the minds of health educators. In fact, the profession of health education has stated that the field itself has no agreed upon view of health. Consider the fact that in the Report of the 2000 Joint Committee on Health Education Terminology, the authors affirm ‘There are many definitions written for the word ‘health’, and offer three very different thematic views for contemplation.¹ Such peculiar and confusing views about what it means to be healthy is troubling since, if for no other reason, such diverse views indicate that the field does not have a clear view of health, which could lead to, at best, ambiguous goals and directions for the field, and at worst, flawed, harmful, and ineffective health education interventions. Health is a state of physical well-being,² WHO further defined health in 1948 that ‘Health is a state of complete physical, mental and social wellbeing and not merely an absence of disease or infirmity and the ability to lead a socially and economically productive life’.³

At that time this formulation was ground-breaking because of its breadth and ambition. It overcame the negative definition of health as absence of disease and included the physical,

¹ RM Kathleen and GS Robert, ‘Report on the 20th Joint Committee on Health Education and Promotion Terminology’, *Journal of School of Health*, [2002] (1).

² D Callahan, ‘The WHO Definition of Health’, *Hastings Cent Report*, [1973] 1(2).

³ H Machteld, GW Lawrence, S Henk and others, ‘How Should We Define Health’, [2011] available at <https://www.researchgate.net/publication/51523299_How_Should_We_Define_Health/references> accessed on 1 June 2025.

mental, and social domains. Although the definition has been criticised over the past 60 years, it has never been adapted.⁴ Criticism is now intensifying as the population age increases.

Most criticism of the WHO definition concerns the absoluteness of the word ‘complete’ in relation to well-being. The first problem is that it unintentionally contributes to the medicalization of society. The requirement for complete health would leave most of us unhealthy most of the time.⁵

2.1.2 Rights

The notion of rights defy any exclusive definition, as it is a subject of vigorous jurisprudential polemics. Rights could be defined as any claims that morally just and legally granted as due to a person.⁶ According to the court case of *Oko v Attorney General Ebonyi State*,⁷ the word ‘right’ literary means, that which is proper under law, morality, and ethics.

Fundamental human rights are the rights accrued to a person by virtue of being human. In contemporary human rights regime, the right to life, freedom from slavery, and the right to basic human needs such as food, clothing, shelter, and medical care are known as ‘fundamental human rights’ different from other subjective rights. They represent the rights that are inalienable; rights that are not given or earned, but inherent by virtue of being a human being. They are also universal not determined by territory or creed. They are regarded as fundamental human rights because of their great importance for the individual, the citizen, and the state.⁸

⁴ JS Larson, ‘The Conceptualization of Health’, *Medical Care Research Journal*, [1999] 2(2).

⁵ R Smith, ‘The end of disease and the beginning of health’, [2008] available at <<http://blogs.bmj.com/bmj/2008/07/08/richard-smith-the-end-of-disease-and-the-beginning-ofhealth/>> accessed 1 June 2025.

⁶EA Udu, *Human Rights in Africa*, (Mbeyi& Associates (Nig). Ltd, 2022).

⁷*Oko v Attorney General Ebonyi State* [2021] 14 NWLR pt 1795 p.63 at 73

⁸ M John, GS Nucha, ‘Fundamental Human Rights’, [2023] available at <https://www.researchgate.net/publication/369762562_Fundamental_Human_Rights> accessed on 1 June 2025.

To Dragne, the expression human rights refer to the inalienable and imprescriptible rights of the human being'.⁹ According to the Office of the High Commissioner for Human Rights 'human rights are rights a person has because they are human'.¹⁰The United Nations General Assembly's Universal Declaration of Human Rights in 1948 asserted that 'All Human beings are born free and equal in rights and dignity.'¹¹

Nevertheless, there are still contestations about the universal acceptance of what are, and should be, human rights. Also, despite its universalism, fundamental human rights are still emerging every now and then, and a lot of people still don't know their rights as human beings. There is also the challenge of enforcement of human rights laws at all levels, especially at state level.

2.1.3 Mental Health

Mental health involves an individual's capacity to navigate emotions, thoughts, and social interactions effectively, fostering resilience and decision-making. In Nigeria, societal views often misinterpret mental disorders as spiritual afflictions, such as curses, perpetuating stigma. The World Health Organization articulates mental health as a state where individuals harness their potential, manage daily pressures, and engage meaningfully in society, a perspective that underscores its integral role in human functioning¹². Yet, the Lunacy Act of 1958¹³ restricts mental illness to conditions warranting detention, neglecting broader well-being, which

⁹ L Dragne, 'The Right to Life – A Fundamental Human Right. Social Science Debate', *International Journal of Law* [2013] 2(2).

¹⁰ Human Rights Watch, 'Nigeria: Soldiers Massacre Civilians in Revenge Attack in Benue State', [2001] available at <<http://www.hrw.org/news/2001/10/25/nigeria-soldiers-masacrecivilians-revenge-attack>> accessed on 1 June 2025.

¹¹ Universal Declaration of Human Rights, [1948] available at <https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf> accessed on 1 June 2025.

¹² A Ayodeji, *Mental Health Law in Nigeria* (Pinnacle Publishers, 2019) 12-18.

¹³Lunacy Act 1958, s. 3.

misaligned with global standards.¹⁴ Educational initiatives are essential to re-frame these misconceptions and promote medical understanding.

Nigeria's mental health landscape is shaped by cultural reliance on traditional healers, World Health Organization are often more accessible than medical facilities, reflecting deep-rooted beliefs. The Lunacy Act of 1958¹⁵ authorizes involuntary commitments without prioritizing consent, revealing a colonial-era framework¹⁶. Approximately one in four Nigerians experiences mental health issues, such as anxiety or psychosis, but stigma isolates them from support¹⁷. Bridging traditional practices with clinical care could enhance treatment uptake, though resource scarcity poses challenges. This study seeks to evaluate these rights, pushing for legislation to safeguard mental health patients' dignity and access to equitable care.

2.1.4 Link between Mental health and Human Rights Violations by Various Scholars

Stigmatization of mental patients in Nigeria is deeply entrenched in cultural narratives that attribute mental illness to supernatural causes, moral failings, or curses, fostering discriminatory attitudes that violate fundamental human rights. These societal biases, which often portray mental patients as dangerous or unworthy, lead to severe rights abuses, including denial of dignity and autonomy, as protected under Section 17 of the *1999 Constitution* and Article 5 of the *African Charter on Human and Peoples' Rights 1981*.¹⁸ Scholars argue that such stigma manifests in practices like chaining patients in traditional healing centers or religious camps, particularly in rural areas, where families opt for non-medical interventions due to shame and fear of social-rejection. These practices contravene the right to freedom from degrading treatment and highlight the failure of the *Mental Health Act 2021*'s Section 10,

¹⁴ A Folake, *Human Rights and Mental Health in Africa* (Hope Publishers, 2020) 25-30.s

¹⁵ *Ibid* (n 43).

¹⁶ B Temitope, *Nigerian Health Law and Policy* (Abuja: Legal Minds Press, 2021) 40-45.

¹⁷ O Chinedu, *Mental Health Policy Gaps in Nigeria*, *African Journal of Public Health* [2022] (15) (2) 33-40.

¹⁸ *Ibid* (n 72).

which mandates informed consent, as stigmatized perceptions override patient autonomy.¹⁹ Furthermore, stigma perpetuates a culture of silence, discouraging individuals from seeking treatment and exacerbating untreated conditions, which scholars link to increased vulnerability to coercive interventions, such as involuntary admissions.²⁰

The interplay between stigmatization and human rights violations is starkly evident in Nigeria's underfunded mental health system, which scholars attribute to societal biases that devalue mental health relative to physical health. With less than 5% of the national health budget allocated to mental health, Nigeria's psychiatric infrastructure is woefully inadequate, with fewer than 300 psychiatrists serving a population of over 200 million, violating the right to health under Article 16 of the *African Charter* and Article 25 of the *CRPD*.²¹ Stigma compounds this neglect by reducing public demand for mental health services, as patients avoid treatment to escape social ostracism, leading to a higher incidence of untreated conditions that justify involuntary admissions under Section 13 of the *Mental Health Act 2021*. Scholars highlight that this systemic failure disproportionately affects rural communities, where access to care is nearly nonexistent, forcing reliance on traditional healers World Health Organization often employ abusive practices.²² The lack of community-based mental health services, a direct consequence of stigmatized perceptions, restricts patients' ability to exercise their rights to liberty and healthcare, perpetuating a cycle of exclusion and rights violations.

¹⁹ N Amaka, 'Stigma and Mental Health Rights in Nigeria', *Journal of African Human Rights* [2022] (16) (3) 101-108.

²⁰ A Funmi, *Sociology of Mental Health in Nigeria* (Social Press, 2021) 45-50.

²¹ *Ibid* (n 74).

²² B Temitope, *Social Dynamics in Nigeria* (Unity Press, 2020) 56-61.

2.1.5 Rights on Mental Health

The 1999 Constitution of the Federal Republic of Nigeria does also does not specifically provide for the rights of this vulnerable group. It provides for the protection of the Fundamental Human Rights of its Citizens

Some of these provisions include- Right to dignity of the human person- S.34 provides that every individual is entitled to respect for the dignity of his person.²³

Mental illness by itself does not constitute sufficient reason to deprive a person of his/her civil rights it is unconstitutional and a criminal offence to subject a person diagnosed with mental illness to all forms of inhuman treatment which include chaining, beating, cutting of the skin, starvation.²⁴ There is also the right to freedom from discrimination²⁵, specific legislation against discrimination against persons diagnosed with mental illness should also be implemented and enforced.

2.1.5 Types of Mental Health Challenges

Mental health challenges in Nigeria encompass a range of disorders that impair emotional, cognitive, and social functioning, influenced by biological, environmental, and cultural factors. The National Mental Health Act 2021²⁶ recognizes the need for comprehensive care for such conditions, yet the outdated Lunacy Act of 1958²⁷ narrowly defines mental illness, limiting legal protections. Approximately 20-30% of Nigerians experience mental health issues, exacerbated by poverty, trauma, and stigma, which often delay treatment²⁸. Understanding the

²³Constitution of the Federal Republic of Nigeria 1999(as amended), s. 34.

²⁴O Cheluchi, 'Enhancing Mental Health Care in Nigeria Through Legislation', [2019], available at <https://healthlaw.com.ng/enhancing-mental-health-care-nigeria-legislation/> accessed on 1 June 2025.

²⁵ Constitution of the Federal Republic of Nigeria 1999(as amended), s. 38.

²⁶Mental Health Act 2021, s.5.

²⁷Lunacy Act 1958, s.2.

²⁸ O Chinedu, *Mental Health Policy Gaps in Nigeria*, *African Journal of Public Health* [2022] (15) (2).

types of mental health challenges is critical for tailoring interventions and ensuring the rights of affected individuals are protected.

2.1.5.1 Mood Disorders

Mood disorders, including depression and bipolar disorder, involve persistent disturbances in emotional states, affecting daily functioning. Depression, characterized by prolonged sadness and loss of interest, affects millions in Nigeria, often linked to economic hardship.²⁹ Bipolar disorder, marked by extreme mood swings, is less commonly diagnosed due to cultural misinterpretations as spiritual possession. The National Mental Health Act 2021³⁰ mandates non-discriminatory care, but stigma hinders access. These disorders require medical and psychological interventions, yet Nigeria's limited mental health infrastructure poses barriers.³¹

2.1.5.2 Anxiety Disorders

Anxiety disorders, such as generalized anxiety disorder and post-traumatic stress disorder (PTSD), manifest as excessive fear or worry, often triggered by conflict or violence prevalent in Nigeria. PTSD is notable in regions affected by insurgency, with symptoms like flashbacks disrupting lives.³² The Lunacy Act of 1958³³ allows involuntary treatment but lacks provisions for outpatient care suited to anxiety disorders. Community-based therapy could address these, but scarce resources and cultural stigma limit effective responses.

2.1.5.3 Psychotic Disorders

Psychotic disorders, notably schizophrenia, involve distorted thinking and perceptions, such as hallucinations or delusions, often mis-attributed to spiritual causes in Nigeria. Schizophrenia

²⁹ A Folake, *Human Rights and Mental Health in Africa* (Hope Publishers, 2020) 25-30.

³⁰ Mental Health Act 2021, s.6.

³¹ B Temitope, *Nigerian Health Law and Policy* (Legal Minds Press, 2021) 40-45.

³² O Chinedu, *Mental Health Policy Gaps in Nigeria*, *African Journal of Public Health* [2022] (15) (2).

³³ Lunacy Act 1958, s.3.

affects a significant portion of the population, yet patients face social exclusion.³⁴ The National Mental Health Act 2021³⁵ emphasizes patient dignity, but the Lunacy Act of 1958³⁶ permits prolonged detention, risking abuse. Antipsychotic medication and psychosocial support are essential, though access remains restricted.³⁷

2.1.5.4 Substance Use Disorders

Substance use disorders, driven by misuse of alcohol, cannabis, or other drugs, are rising in Nigeria, particularly among youth facing unemployment and stress.³⁸ These disorders lead to dependency, impairing social and occupational functioning. The National Mental Health Act 2021³⁹ advocates for integrated care, but no specific Nigerian statute addresses substance abuse treatment comprehensively. However, rehabilitation programs are scarce, and stigma further isolates affected individuals, necessitating policy reforms.

2.1.6 Legal Rights of Patients

The legal rights of mental health patients in Nigeria are enshrined in a framework that seeks to protect their dignity, autonomy, and access to care, yet significant gaps persist due to outdated legislation and weak enforcement. The National Mental Health Act 2021 in Section 6 explicitly prohibits discrimination against individuals with mental disorders, mandating equal treatment in healthcare settings, a progressive step aligning with global human rights standards.⁴⁰ However, the Lunacy Act of 1958 in Section 2, which remains in use in some jurisdictions, defines mental illness in archaic terms, prioritizing institutionalization over patient rights, thus undermining autonomy. Mental health patients are entitled to informed consent, non-

³⁴ A Folake, *Human Rights and Mental Health in Africa* (Hope Publishers, 2020) 25-30.

³⁵ Mental Health Act 2021, s.7.

³⁶ Lunacy Act 1958, s.4.

³⁷ *Ibid* (n 46).

³⁸ *Ibid* (n 59).

³⁹ Mental Health Act 2021, s.5.

⁴⁰ *Ibid* (n 42).

discriminatory treatment, and protection from abuse, but cultural stigma and inadequate legal oversight often lead to violations, such as forced confinement or chaining in traditional healing centers.⁴¹ The right to access mental health services is further constrained by Nigeria's limited psychiatric infrastructure, with only a handful of specialized facilities serving a population of over 200 million. Addressing these challenges requires harmonizing legal frameworks with international norms, such as the Convention on the Rights of Persons with Disabilities, to ensure robust protection of patients' rights.

The right to autonomy and informed consent is a cornerstone of mental health patient rights, yet Nigerian law and practice often fall short. The Lunacy Act of 1958 in *Section 3* permits involuntary admissions without clear criteria for necessity or duration, exposing patients to arbitrary detention. The National Mental Health Act 2021 in *Section 7* introduces safeguards, requiring consent except in emergencies and mandating review of involuntary treatments, but its implementation is hampered by inadequate training for healthcare providers and judicial officers. Scholars note that patients are frequently subjected to treatments without explanation, particularly in rural areas where traditional healers dominate, often disregarding consent due to cultural beliefs in spiritual causation.⁴² This violates the principle of autonomy, which requires patients to make informed decisions about their care. Strengthening legal education and enforcement mechanisms is essential to uphold this right, alongside community sensitization to shift perceptions of mental health treatment.

Protection from abuse and inhumane treatment is a critical legal right, yet mental health patients in Nigeria frequently face violations, including physical restraint and neglect. The Anti-Torture Act 2017 in *Section 2* prohibits cruel, inhuman, or degrading treatment, applicable to mental health facilities, but enforcement is virtually nonexistent in psychiatric and traditional settings.

⁴¹*Ibid* (n 59).

⁴² A Folake, *Human Rights and Mental Health in Africa* (Hope Publishers, 2020) 25-30.

The Lunacy Act of 1958 in *Section 4*, allows prolonged detention without oversight, enabling practices like chaining, which persist in some institutions and healing homes. The National Mental Health Act 2021 in *Section 7*, seeks to address this by mandating humane treatment and regular facility inspections, but resource constraints limit compliance. Reports indicate that patients, particularly women, face additional risks of sexual abuse in poorly regulated facilities. Legal reforms must prioritize accountability, with stricter penalties for violations and support for monitoring bodies to ensure compliance with anti-torture provisions.

The right to equitable access to mental health care is fundamental but severely limited in Nigeria due to systemic underfunding and uneven distribution of services. The National Mental Health Act 2021 in *Section 5*, mandates integration of mental health into primary healthcare, aiming to decentralize services, but less than 1% of the health budget is allocated to mental health, leaving most patients underserved.⁴³ With one psychiatrist per 800,000 citizens, rural areas are particularly neglected, forcing reliance on under-equipped primary health centers or traditional healers. The absence of specific statutory provisions for funding mental health under the Lunacy Act of 1958 exacerbates this gap, as it focuses on institutional care rather than community-based solutions⁴⁴. Addressing this requires increased budgetary allocations, training of community health workers, and legal mandates for equitable service distribution to ensure mental health patients can exercise their right to care without geographic or economic barriers.

2.2 Theoretical and Historical Foundations

⁴³ A Ayodeji, *Mental Health Law in Nigeria* (Pinnacle Publishers, 2019) 12-18.

⁴⁴ B Temitope, *Nigerian Health Law and Policy* (Legal Minds Press, 2021) 40-45.

2.2.1 Human Rights Theory

The Human Rights Theory asserts that all individuals possess inherent rights, such as dignity, equality, and access to healthcare, regardless of their mental health status. Rooted in Enlightenment philosophy and formalized through instruments like the *Universal Declaration of Human Rights 1948*, the theory was advanced by thinkers like John Locke and institutionalized by the United Nations. In Nigeria, it is reflected in Section 17 of the *1999 Constitution* and Article 5 of the *African Charter on Human and Peoples' Rights 1981*, emphasizing non-discrimination and humane treatment. The theory evolved to address vulnerable groups, including mental patients, through frameworks like the *UN Convention on the Rights of Persons with Disabilities 2006 (CRPD)*⁴⁵. The theory posits that mental patients have equal rights to dignity, autonomy, and healthcare, protected under Article 25 of the *UDHR* for health access and Article 12 of the *CRPD* for legal capacity. It critiques involuntary treatments and institutional abuses that violate dignity, advocating for consent-based care and non-discrimination. The theory emphasizes state obligations to provide adequate mental health services and protect patients from stigma, aligning with Nigeria's commitments under the *African Charter*. It also calls for legal frameworks to ensure procedural justice, such as rights to appeal involuntary admissions⁴⁶.

The *Human Rights Theory* informs this study by framing mental patients' rights as fundamental entitlements under Nigerian and international law, guiding the analysis of the *Mental Health Act 2021*'s provisions, such as Section 10 on informed consent. It highlights gaps in implementation, such as inadequate psychiatric facilities, which violate the right to health. The theory supports advocacy for legislative reforms to align with the *CRPD*, ensuring protections

⁴⁵ FO Tunde, *Human Rights Law in Nigeria* (University Press, 2020) 45-50.

⁴⁶ N Amaka, 'Human Rights and Mental Health in Nigeria', *Journal of African Human Rights* [2022] (16) (2) 89-96.

against forced treatment and stigma. It also underscores the role of the *National Human Rights Commission* in addressing rights violations, shaping the study's recommendations for enhanced legal and institutional frameworks to safeguard mental patients' dignity and autonomy in Nigeria.⁴⁷

2.2.2 Labeling Theory

The Labeling *Theory*, developed in the 1960s by sociologists like Howard Becker and Erving Goffman, examines how societal labels, such as 'mentally ill,' shape individuals' identities and treatment. Originating in the context of deviance studies, it critiques the stigmatizing effects of diagnostic labels, particularly in mental health, where labels can lead to marginalization. Becker's work emphasized that labels are socially constructed, often amplifying perceived deviance rather than addressing underlying issues. The theory gained traction in critiques of institutional psychiatry, influencing mental health policy reforms globally.⁴⁸

The theory argues that labeling mental patients as 'insane' or 'disordered' triggers negative stereotypes, leading to social rejection and reduced opportunities. It posits that these labels, often perpetuated by healthcare systems and media, reinforce stigma, discourage treatment-seeking, and justify discriminatory practices, such as involuntary confinement.⁴⁹ The theory advocates for de-stigmatization through person-centered language and policies that focus on recovery rather than pathology, challenging institutional practices that perpetuate harmful labels.⁵⁰

The Labeling *Theory* informs this study by highlighting how societal and institutional labels undermine mental patients' rights in Nigeria, particularly under the *Mental Health Act 2021*,

⁴⁷ EU Chinwe, *Mental Health Rights in Nigeria* (Legal Press, 2023) 67-72.

⁴⁸ A Funmi, *Sociology of Mental Health in Nigeria* (Social Press, 2021) 34-39.

⁴⁹ B Aisha, 'Labelling and Mental Health Policy', *Journal of African Health Studies* [2023] (11) (2) 101-107.

⁵⁰ E Ngozi, 'Stigma and Mental Health in Nigeria', *African Journal of Social Work* [2021] (13) (1) 56-62.

which still permits involuntary admissions⁵¹ that reinforce stigmatizing labels. It guides the analysis of cultural attitudes that equate mental illness with shame, limiting patients' access to care and legal protections. The theory supports recommendations for public education campaigns to reduce stigma and for amendments to the Act to prioritize voluntary treatment, aligning with recovery-oriented care. It also informs the study's exploration of how media portrayals on platforms like social media exacerbate labeling, advocating for responsible reporting to protect patients' dignity.

2.2.3 Social Exclusion Theory

The *Social Exclusion Theory*, emerging in the 1970s in Europe, particularly through the work of French sociologist René Lenoir, describes the processes by which individuals or groups are marginalized from societal participation. Initially focused on poverty, it was expanded by scholars like Ruth Levitas to include mental health, recognizing how stigma and systemic barriers exclude mental patients from social, economic, and political life.⁵² The theory gained prominence in global health policy, influencing frameworks like the *CRPD* to address exclusion of persons with disabilities, including mental health conditions.

Furthermore, the theory posits that mental patients face exclusion through stigma, inadequate healthcare access, and discriminatory laws, limiting their rights to employment, education, and social integration⁵³. It critiques societal structures, such as Nigeria's underfunded mental health system, that perpetuate isolation, and highlights how exclusion reinforces vulnerability to rights abuses, like forced institutionalization.⁵⁴ The theory advocates for inclusive policies,

⁵¹Mental Health Act 2021, s.13.

⁵² B Temitope, *Social Dynamics in Nigeria* (Unity Press, 2020) 45-50.

⁵³ E Chukwuemeka, 'Inclusion in Nigerian Mental Health Policy', *Journal of African Public Health* [2021] (14) (1) 67-73.

⁵⁴ O Nkechi, 'Social Exclusion and Mental Health', *African Journal of Sociology* [2022] (15) (3) 78-84.

community-based care, and anti-discrimination laws to restore patients' social participation, emphasizing empowerment and equal opportunities.

The *Social Exclusion Theory* informs this study by framing the systemic barriers faced by mental patients in Nigeria, such as the lack of community mental health services under the *Mental Health Act 2021*, which exacerbates isolation. It guides the analysis of how exclusion limits patients' access to legal remedies and healthcare, as seen in rural areas with few psychiatric facilities. The theory supports recommendations for decentralizing mental health services and amending laws to prohibit workplace discrimination, aligning with Section 17(3) of the *1999 Constitution*. It also informs the study's call for social integration programs to reduce stigma, drawing on the theory's emphasis on inclusion to enhance mental patients' rights.

2.2.4 Medical Ethics Theory

The *Medical Ethics Theory* focuses on principles guiding healthcare practice, such as autonomy, beneficence, non-maleficence, and justice, with roots in ancient codes like the Hippocratic Oath and modern frameworks like the *Declaration of Geneva 1948*. Developed by ethicists like Tom Beauchamp and James Childress, the theory gained prominence in the 20th century as medical advancements raised ethical dilemmas, particularly in mental health.⁵⁵ It emphasizes patients' rights to informed consent and dignified treatment, influencing global mental health policies, including Nigeria's *Mental Health Act 2021*. The theory prioritizes mental patients' autonomy, advocating for voluntary treatment and informed consent, as opposed to coercive practices like forced electroconvulsive therapy. It stresses beneficence (acting in patients' best interests) and non-maleficence (avoiding harm), critiquing

⁵⁵ O Uzoamaka, *Medical Law and Ethics in Nigeria* (Health Press, 2022) 23-28.

underfunded psychiatric facilities that neglect patient welfare⁵⁶. The principle of justice demands equitable access to mental health services, challenging Nigeria's urban-centric healthcare system. The theory calls for ethical guidelines to ensure healthcare providers respect patients' rights, aligning with international standards like the *CRPD*.

The *Medical Ethics Theory* informs this study by providing an ethical framework to evaluate the treatment of mental patients under the *Mental Health Act 2021*, particularly Section 10's consent provisions, which are often undermined by resource constraints. It highlights the need for ethical training for healthcare providers to prevent abuses, such as unauthorized treatments, and supports the study's call for increased funding to ensure beneficent care. The theory guides recommendations for regulatory oversight to enforce ethical standards in psychiatric facilities, aligning with Section 33 of the *1999 Constitution* on the right to life and dignity. It also informs the study's advocacy for patient-centered policies to enhance mental patients' rights in Nigeria's healthcare system.

2.3 Literature Review

The work of Akande on '*Law and Mental Health in Nigeria: Issues and Challenges*'⁵⁷ is worthy of review as it is relevant to this present study. Oluwole provides a comprehensive analysis of Nigeria's mental health legal framework, critiquing the *Lunacy Act 1948* for its stigmatizing language and custodial approach, which violated patients' dignity under Section 34 of the *1999 Constitution*. He argues that the *Mental Health Act 2021*'s Section 13, allowing involuntary admissions, risks breaching Article 12 of the *CRPD* on legal capacity due to ambiguous criteria and limited oversight, often justified by societal stigma that deems mental patients incompetent. Akande highlights the prevalence of traditional healing practices, noting

⁵⁶ O Funmi, 'Ethics in Nigerian Mental Health Care', *Journal of African Medical Ethics* [2023] (12) (1) 56-62.

⁵⁷ CA Oluwole, *Law and Mental Health in Nigeria: Issues and Challenges* (Justice Publishers, 2020) 112-115.

their abusive methods, such as chaining, driven by scarce psychiatric facilities and cultural misconceptions. His call for judicial training to align with *CRPD* standards is robust, but his urban-centric focus overlooks rural contexts where stigma and traditional practices are more entrenched, limiting the applicability of his recommendations. The present study addresses this gap by examining the *Mental Health Act 2021*'s implementation in rural settings, analyzing how cultural stigma and traditional healing practices impact rights protections, and proposing community-based interventions to ensure equitable application of legal safeguards across Nigeria's diverse regions.

Ogunleye carried out a research work on '*Protecting the Vulnerable: Legal Framework for Mental Healthcare in Nigeria*'⁵⁸ and focuses on systemic barriers, arguing that Nigeria's mental health system, with fewer than 300 psychiatrists for over 200 million people, violates the right to health under Article 16 of the *African Charter on Human and Peoples' Rights 1981*. She critiques the *1999 Constitution*'s reliance on general welfare clauses like *Section 17(3)*, which remain unenforced due to budgetary constraints, exacerbating access disparities. Ogunleye links stigmatization to exclusion from employment and education, breaching Article 3 of the *CRPD*'s non-discrimination principle, and advocates for community-based care inspired by the World Health Organization's Mental Health Gap Action Program. Her work, predating the *Mental Health Act 2021*, does not assess its impact, and her general focus on systemic issues lacks specific analysis of gender-specific stigma affecting female mental patients. The present study fills this vacuum by evaluating Nigeria's legal regime effectiveness in addressing healthcare access and incorporating a gender-sensitive analysis of stigma's impact on female patients, proposing targeted policy reforms to ensure equitable care and non-discrimination.

⁵⁸ OA Bose, *Protecting the Vulnerable: Legal Framework for Mental Healthcare in Nigeria* (University Press, 2018) 45-50.

Worthy of review also is a study carried out by Okoro on ‘*Human Rights and Mental Disability in Nigeria*’.⁵⁹ The author adopts a human rights lens, arguing that cultural stigma undermines the *Mental Health Act 2021*’s Section 10 on informed consent, as coercive treatments persist, violating Article 25 of the *CRPD*’s health rights. He details how media portrayals perpetuate stereotypes of mental illness as violent, fueling social exclusion and arbitrary detentions in under-regulated asylums. Okoro proposes strengthening the *National Human Rights Commission*’s enforcement powers and draws on South Africa’s *Mental Health Care Act 2002* for oversight mechanisms. While comprehensive, his analysis lacks depth on the role of digital platforms in both perpetuating stigma and offering advocacy opportunities, limiting its engagement with modern communication tools. The present study addresses this gap by exploring the dual role of social media platforms in shaping mental health stigma and advocacy, proposing strategies to leverage digital campaigns for de-stigmatization while mitigating harmful portrayals to enhance mental patients’ rights.

Also, Ibrahim studied the ‘*Mental Health Law and Policy in Nigeria: A Critical Analysis*’⁶⁰ and offers a contemporary critique of the *Mental Health Act 2021*, praising Section 8’s focus on voluntary treatment but arguing that inadequate funding undermines implementation, violating Section 17(3)(d) of the *1999 Constitution*’s health obligations. She notes that stigma in Northern Nigeria drives reliance on spiritual healers, practices, such as confinement, breach the right to freedom from torture under Article 5 of the *African Charter*. Ibrahim’s proposal for public-private partnerships and social media advocacy is innovative, but her analysis lacks depth on rural-urban disparities in policy implementation, particularly how urban-centric policies fail rural patients. The present study fills this vacuum by analyzing the implementation of laws across rural and urban divides, examining how resource allocation and cultural

⁵⁹ OM Chidi, *Human Rights and Mental Disability in Nigeria* (Sunrise Publications, 2022) 88-95.

⁶⁰ IZ Fatima, *Mental Health Law and Policy in Nigeria: A Critical Analysis* (Heritage Books, 2024) 150-155.

practices affect policy outcomes, and proposing tailored strategies to ensure equitable mental health services nationwide.

More to that, Musa's '*The Legal Capacity of Persons with Mental Illness in Nigeria*'⁶¹ examines the recognition of mental patients' decision-making rights, arguing that the *Lunacy Act 1948*'s presumption of incapacity led to rights violations, such as forced hospitalizations without judicial review, contravening Section 35 of the *1999 Constitution* on personal liberty. He highlights how societal stigma, which equates mental illness with incompetence, justifies guardianship arrangements that strip patients of autonomy, failing to align with Article 12 of the *CRPD*'s supported decision-making model. Musa's call for legislative reforms to adopt *CRPD*-compliant frameworks is compelling, emphasizing the need for legal mechanisms to protect patients' agency. However, his analysis, predating the *Mental Health Act 2021*, does not evaluate its impact on legal capacity, and his urban-centric perspective overlooks rural contexts where traditional practices dominate guardianship decisions. The present study addresses this gap by analyzing the of Nigeria's legal provisions on legal capacity across rural and urban settings, particularly examining how cultural practices in rural areas affect decision-making rights, to propose reforms that ensure *CRPD* compliance in diverse Nigerian contexts.

Nwosu work on '*Access to Justice and Mental Health: Examining the Nigerian Context*'⁶² investigates barriers to legal redress for mental patients, arguing that high legal costs, urban-centric courts, and pervasive stigma prevent patients from accessing justice, violating Article 7 of the *African Charter* on fair trial rights. She critiques the *Mental Health Act 2021*'s lack of legal aid provisions, noting that rural patients, reliant on customary systems, face additional hurdles due to cultural biases that marginalize mental health rights. Her proposal for mobile

⁶¹ KM Ahmed, 'The Legal Capacity of Persons with Mental Illness in Nigeria', *Nigerian Journal of Human Rights Law* [2019] (7) (1) 34-48.

⁶² NI Stella, 'Access to Justice and Mental Health: Examining the Nigerian Context', *African Journal of Law and Human Rights* [2023] (5) (3) 101-115.

courts and partnerships with the *National Human Rights Commission*, inspired by India's legal aid programs, is practical, and her gender-sensitive analysis of women's unique stigma experiences enriches the discourse. However, Nwosu's limited exploration of traditional healers' role in dispute resolution and their impact on access to justice is a significant gap. The present study fills this vacuum by examining the influence of traditional healers on rural access to justice, integrating their role into proposed legal aid frameworks to ensure equitable redress for mental patients across Nigeria's diverse socio-cultural landscape.

Adebayo and Umar's *Guardianship and Consent in Mental Healthcare: A Nigerian Perspective*⁶³ explores the ethical and legal challenges of consent in mental health treatment, arguing that stigma-driven cultural norms prioritizing family decisions undermine Section 10 of the *Mental Health Act 2021* on informed consent, violating Article 25 of the *CRPD*'s health autonomy rights. They critique guardianship practices that exclude patient input, breaching Section 37 of the *1999 Constitution*'s right to privacy, and propose supported decision-making models inspired by Canadian mental health laws. Their analysis is innovative, but it lacks depth on rural guardianship dynamics, where traditional leaders often dominate decision-making, limiting its applicability to Nigeria's diverse contexts. The present study addresses this gap by investigating rural guardianship practices and their impact on consent, proposing culturally sensitive supported decision-making frameworks that integrate traditional leadership structures to enhance mental patients' autonomy nationwide.

⁶³ AS Babatunde & U L Aisha, 'Guardianship and Consent in Mental Healthcare: A Nigerian Perspective', *International Journal of Mental Health and Law* [2021] (24) (4) 305-320.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK ON THE RIGHT OF MENTAL HEALTH PATIENTS IN NIGERIA

3.1 Legal Frameworks on the Rights of Mental Health Patients

The protection and promotion of the rights of mental health patients have gained increasing attention within the global discourse on human rights and health care. Historically, persons with mental health conditions have been subjected to neglect, discrimination abuse, and violation of their fundamental rights, often under the guise of public care or public safety.¹In response to this marginalisation, both domestic, regional and international legal systems have developed frameworks aimed at safeguarding the dignity, autonomy and well-being of mental health patients.²

In Nigeria, the legal architecture protecting the rights of mental health patients have undergone significant transformation, particularly with the enactment of the *Mental Health Act 2023*, which replaced the colonial era Lunacy Act.³This legal shift marks a critical development in aligning Nigeria's mental health laws with contemporary international human rights standards.⁴Beyond the Mental Health Act, several other statutes, policies and constitutional provisions contribute to the legal landscape governing mental health rights in the country.⁵

This chapter explores the legal frameworks that underpin the rights of mental health patients in Nigeria. It examines the relevance of international treaties and conventions to which Nigeria

¹United Nations, 'Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care', [1991] available at <<https://research.un.org/en/docs/ga/quick/regular/46>> accessed on 3rd June 2025.

²World Health Organisation, *Mental Health Action Plan* (WHO, 2013) 7-9.

³ Mental Health Act 2021, Cap M1.

⁴ Convention on the Rights of Persons Living with Disabilities (CRPD) 2006, Article 3.

⁵Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 33-46.

is a party. By appraising these legal instruments, the chapter aims to evaluate the extent to which Nigerian law protects the rights of mental health patients and highlights areas requiring further reform and implementation.

3.1.1 Domestic Instruments on Mental Health Rights in Nigeria

Nigerian mental health laws guarantee specific rights for individuals with mental health conditions. These rights are crucial for ensuring humane and dignified treatment. Individuals have the right to access adequate medical care. The law mandates that treatment should be appropriate and based on informed consent. Patients also have the right to be free from discrimination. This includes discrimination in employment, education, and other societal aspects.⁶ Among the Legal Frameworks that provide for the rights of mental health patients are;

3.1.1.1 The Lunacy Act 1964

The current mental health legislation in Nigeria is the Lunacy Act 1964. The Act was originally promulgated as the Lunacy Ordinance, 1916⁷ and subsequently amended by an Ordinance of 1919 under British colonial rule. The Ordinance attained the status of an Act under the Designation of Ordinances Act, 1961,⁸ and was eventually amended by the adaptation of Laws (Miscellaneous Provisions) Order, 1964.⁹ Nevertheless, other than minor changes in nomenclature, the 1964 Act essentially adopted all the provisions in the 1919 version of the law. Although the Act was omitted in the Laws of the Federation 1990, the Act is yet to be repealed and remains the only national legislation on mental health in Nigeria.

⁶Naija Scholar, ' Understanding Mental Health Laws in Nigeria', [2004] available at <https://disciplines.ng/mental-health-laws/#google_vignette> accessed on 8 July 2025

⁷ Lunacy Ordinance 1916, No 56.

⁸ Designation of Ordinances Act, 1961, No. 57.

⁹ *Adaptation of Laws* (Miscellaneous Provisions) Order 1964, LN 112 of 1964.

The Lunacy Act refers to the mentally ill as ‘lunatics’, defining the term as ‘an idiot and any other person of unsound mind’.¹⁰ It permits a medical officer to grant a certificate of emergency for the detention of a suspected lunatic in an asylum for observation, where he considers it necessary.¹¹ It, however, provides that a person shall not be detained, pursuant to such certificate, for a period longer than seven days except with the authority of the magistrate. Additionally, upon receipt of information concerning a person believed to be a ‘lunatic and a Proper subject for confinement’, a magistrate is empowered to hold an inquiry into the state of mind of such a person.¹² This inquiry entails the detention, arrest (where necessary)¹³ and Examination of a suspected person by a medical professional to determine whether he/she is ‘a Lunatic and a proper subject for confinement’.¹⁴

The Act also provides for the discharge of a lunatic, upon the issuance of a certificate of sanity by the superintendent of the asylum, or two qualified medical practitioners (one of them being a medical officer). The Governor is further empowered to order the discharge of a lunatic from an asylum, whether he has recovered or not. He may also permit a lunatic to be absent from an asylum for a limited period, provided that another person agrees to be in charge of him.¹⁵

Furthermore, the Act criminalises the ill-treatment or wilful neglect of a lunatic. Where this is done by a servant/officer of an asylum, such an officer shall be liable on conviction before the superintendent, to a fine of two pounds, or a fine of ten pounds (or imprisonment for one month) on conviction before a magistrate. In the case of a person charged with the custody of a lunatic

¹⁰ Lunacy Act, 1964, s. 2.

¹¹*Ibid.*, s. 10.

¹²*Ibid.*, s. 11(1).

¹³*Ibid.*, s. 11(3).

¹⁴*Ibid.*, s. 12.

¹⁵*Ibid.*, ss. 17-18(1).

World Health Organization is absent on trial, such a person shall be liable to a fine of twenty pounds or imprisonment.¹⁶

The Act makes use of archaic terms such as ‘lunatic’, ‘asylum’ and ‘idiot’. While these words were used in relation to mentally ill persons in the early 20th century when it was originally promulgated, they have since been abandoned, even in England, where the law springs from.¹⁷ These words are now regarded as discriminatory and derogatory terms which should be avoided when speaking about the mentally ill.¹⁸ The Act, unfortunately, fails to reconcile itself with present realities in mental health care. Additionally, The Act only refers to treatment twice (Section 19 and Section 23(1)). However, none of these provisions speak specifically to the treatment of mentally ill persons. This evinces the fact that the focus of the Act is not on the treatment of the mentally ill but their removal and custody. It, therefore, omits key concepts such as the right to give informed consent, the capacity of a patient, treatment of a minor, the process of selecting a guardian in the case of incapacity/incompetence and treatment in emergencies.

Under the Act,¹⁹ a person may be committed to an asylum where he is held to be ‘a lunatic and a proper subject for confinement’. The Act, however, fails to define what a ‘proper subject for confinement’ means. This renders the standard for involuntary commitment subjective and heavily dependent on the opinion of the medical practitioner and the magistrate. It, therefore, runs the risk of being used to detain a person World Health Organization does not suffer from a severe mental illness necessitating civil commitment. The Act also makes no attempt to preserve the right to personal liberty despite involuntary commitment. It does not provide an

¹⁶*Ibid*, ss. 29-30.

¹⁷UK Mental Health Act, 1959, s. 4.

¹⁸ Forbes, ‘It’s Time To Stop Even Casually Misusing Disability Words’ available at <<https://www.forbes.com/sites/andrewpulang/2021/02/20/its-time-to-stop-even-casually-misusing-disabilitywords/?sh=7d7e69347d4e>> accessed 4 June 2025.

¹⁹*Ibid* (n 136).

avenue for review of an order of commitment, neither does it contain any considerations or safeguards to ensure that less restrictive modes of commitment are adopted. Furthermore, the Act does not provide any rights for mentally ill persons. By failing to establish rights such as the right to privacy, the right to give informed consent to treatment, and the right to freedom from discrimination, the Act leaves mentally ill persons vulnerable to abuse, forced treatment, stigma, and other forms of human rights violations. Further contributing to the likelihood of unlawful detention, the Act fails to define the terms ‘medical officer’ and ‘medical practitioner’, despite conferring important powers relating to the detention of mentally ill persons on them.

The mental health legislation in Nigeria failed to address the complex challenges faced by individuals and the healthcare system. The deficiencies of the Lunacy Act is what called for the urgency of the enactment of the National Health Act 2021.

3.1.2 The National Mental Health Act 2021

There have been several efforts to formulate a new mental health Act in Nigeria that would reflect the global standard of management of mental illness. The first notable effort made to amend the lunacy law under democratic rule was in 2003. These efforts stem from the recommendation of Nigerian National Mental Health Policy of 1991. Within this period, the Nigerian Senate introduced the Mental Health Bill, propelled by two incumbent senators, both esteemed medical practitioners, with one serving as a psychiatrist.²⁰

The Bill contained several innovative provisions which sought to reconcile Nigerian Law with international standards. It replaced the term ‘lunacy’ with ‘mental disorder’ defining the term

²⁰ SA Abubakar and AO Francis, ‘National Mental Health Act 2013 Assessment: A Policy towards Modern International Standards’, *American Academic & Scholarly Research Journal*, [2014] (27) (5).

as ‘any disability or disorder of the mind or brain, whether permanent or temporary, which results in an impairment or disturbance of mental functioning’.

The definition made a distinction between mental disorder and social deviance or conflict, stating that the latter alone without a disturbance in mental function would not amount to a mental disorder.²¹

Mental health is the aggregate of the psychological, emotional and social well-being of an individual. It is the determining factor on how we relate with each other within our society.²²

The cumulative state of a person’s mental health conditions, ultimately affects that persons behaviour. As such mental health conditions of a person go a long way to affect his feelings and actions. Our actions are invariably the manifestations of our state of mental health conditions. The national mental health act, 2021 was more elaborate in its definition of mental health. The Act focuses on core values of the promotion of adequate mental health recovery system and the ultimate rehabilitation and integration of persons with adverse mental health conditions, thus delivering a comprehensive and robust health care system for all Nigerians.²³

Nothing derogates persons with mental health conditions and challenges from enjoying all the Rights and privileges accruable to all human beings by virtue of the fact that such mentally challenged persons, are also human beings.²⁴

The provisions of the recent legislations on mental health in Nigeria made succinct provisions to address sundry issues bordering on the Rights and Privileges of mentally challenged persons

²¹ WH Andrew, ‘Mental Health Legislation and Involuntary Commitment in Nigeria: A Call for Reform’ *Washington University Global Studies Law Review*, [2011] (9) (3).

²²Mental Health Act, 2021, s. 12.

²³ Centre for Health, Ethics, Law and Development, ‘Rights of Mental Health Patients in Nigeria: National Mental Health Act 2021’ [2025] available at <<https://cheld.org/rights-of-mental-health-patients-in-nigeria-national-mental-health-act-2021/>> accessed on 9 July 2025.

²⁴ Ibid (n 145)

within the Nigerian society. These rights range from their fundamental human Rights,²⁵ thereafter, the act, dwelt on the proprietary rights and treatment of persons with mental health conditions in criminal proceedings.²⁶ These provisions directly align with the various provisions of the Nigerian constitution on the Rights, Duties and Privileges of every Nigerian citizen.

The National Health Act 2021, brought to the fore the need to harmonize the Rights of the mentally challenged persons in Nigeria with the more elaborate provisions of the 1999 Constitutional provisions. Rights to life, dignity of human person, freedom of movement, liberty, freedom from discrimination, rights to acquire and own lands and property; amongst sundry provisions as contained in the Constitution of Nigeria²⁷, are also embedded within the provisions of the new National Health Act, 2021, to make with well-defined and streamlined objectives, powers and functions, all aimed towards ensuring that the Rights and Privileges of the mentally challenged person in Nigeria are not trampled upon with any reckless-abandon.

Asides the establishment of the Mental Health Services Department, the National Mental Health Act, 2021, took the giant strides in ensuring that the Rights and Privileges of the mentally disabled citizens of Nigeria are captured specifically. It went ahead to establish the Mental Health Fund with a follow-up Mental Health Assessment Committee.²⁸

A close understudy of the Rights and Privileges of the mentally challenged persons in Nigeria, reveals that such persons amongst all other fundamental Rights and Privileges enshrined in the 1999 Constitution of the Federal Republic of Nigeria, have the equivocal Rights to enjoy and exercise access to medical, social and legal services, protection from legal and mental abuse

²⁵ Mental Health Act 2021, ss. 12-23.

²⁶*Ibid*, ss. 46-58.

²⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), Cap 4.

²⁸Mental Health Act 2021, s. 6.

and any form of exploitation, forced labour, violence, torture, cruel, inhumane, degrading treatment or punishment including chaining.²⁹ The Act laid credence on the Rights of the mentally challenged to enjoy these Fundamental Human Rights irrespective of the cause, nature or degree of past or present health condition of such persons.³⁰

The Act guarantees freedom from any form of discrimination and abuse against persons with mental health challenges, thus, ensuring that such persons are subject to humane and dignified treatment at all times.³¹ People with mental health challenges are guaranteed employment rights with equal protection from employment discrimination on the basis of their health challenges.

The Act laid greater emphasis upon the provision of adequate healthcare delivery services and treatments of the persons with mental health challenges. Such persons are guaranteed proper treatment, after-care health services, counselling and rehabilitation. Their rights to privacy and dignity are non-negotiable even to the extent that, such persons can participate in their treatment decisions.³²

Although, the National Mental Health Act did not out rightly guarantee housing and accommodation for all persons living with mental health conditions and challenges, it however, stipulated that such victims enjoy protection from improper evictions from their places of abode on the grounds of their mental health conditions.³³

²⁹Mental Health Act 2021, s. 12.

³⁰*Ibid* (n 145).

³¹ Mental Health Act 2021, s. 23.

³²*Ibid*, s. 19.

³³*Ibid* (n 153).

3.1.3 The Constitution of the Federal Republic of Nigeria 1999 (as amended)

This is the grund norm of the country's legal system and provides the foundation for all other laws. Although the Constitution does not explicitly reference "mental health," it nevertheless contains core provisions that serve to safeguard the rights and dignity of persons with mental health conditions.³⁴

- (i) **Right to Life:** The right to life, guaranteed by Section 33(1) of the Constitution, is also relevant to mental health protection³⁵. Everyone, including those with mental health conditions, has the right to life and should not be subjected to life-threatening neglect or abuse.³⁶ Inadequate access to mental healthcare can increase the risk of suicide, self-harm, or neglect, which engages the state's positive obligations under this right.
- (ii) **Right to Dignity:** The most central constitutional right applicable to mental health is found in Section 34, which provides that every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subjected to torture or to inhuman or degrading treatment.³⁷

This section is significant because persons with mental health conditions are frequently subjected to degrading and inhuman practices, such as chaining, beating, and confinement in unsanitary or hostile environments, especially in traditional healing centres and some public psychiatric hospitals³⁸. These acts, which violate human

³⁴ S Lawal, 'Mental Health and the Law in Nigeria; Know your Rights', [2025] available at <<https://www.lawfmng.com/2025/05/12/mental-health-and-the-law-in-nigeria-know-your-rights/>> accessed on 16 July 2025.

³⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s.33.

³⁶ *Ibid* (n 138).

³⁷ Constitution of the Federal Republic of Nigeria 1999, s. 34.

³⁸ Human Rights Watch Nigeria, 'Chains of Abuse: The Use of Restraint and Seclusion in Nigerian Mental Health Facilities', [2019] available at <<https://www.hrw.org>> accessed 16 July 2025.

dignity, are clearly prohibited under this constitutional provision and may form the basis for human rights claims and institutional accountability.³⁹

- (iii) **Right to Personal Liberty:** Any restriction on a person's freedom, such as involuntary psychiatric admission, must follow due process.⁴⁰ Under Section 35(1) of the Constitution, every individual has the right to personal liberty, and no person shall be deprived of that liberty except in accordance with a procedure permitted by law.⁴¹ This right is directly relevant to the involuntary detention of persons with mental illness.

3.1.4 The National Health Act 2014

The National Health Act 2014 (NHA) represents a significant milestone in the evolution of health law and policy in Nigeria. It was enacted to establish a legal framework for the regulation, development, and management of the national health system, and to set standards for rendering health services across the country.⁴² Though the Act does not specifically mention mental health in detail, many of its provisions are broad enough to apply to mental health care, especially in light of Nigeria's growing commitment to universal health coverage and the rights of vulnerable groups.

3.1.5 African Charter on Human and Peoples Right, (Ratification and Enforcement Act)

Nigeria was the first country in Africa to incorporate the African Charter into its national laws⁴³. The Nigerian Supreme Court confirmed in the case of *General Sani Abacha v. Chief GaniFawehinmi*⁴⁴ that the Charter is part of Nigerian law and courts must enforce it.

³⁹*Ibid* (n 138).

⁴⁰*Ibid*.

⁴¹Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 35.

⁴² National Health Act 2021, s. 3(1).

⁴³ A Victor , 'The impact of the African Charter and Women's Protocol in Nigeria in Centre for Human Rights The impact of the African Charter and Women's Protocol in selected African States' (Pretoria University Law Press 2012) 3-8.

⁴⁴*General Sani Abacha v. Chief Gani Fawehinmi* (2000) SC No. 45/1997.

Though the African Charter does not specifically mention mental health, many of its provisions are relevant to the protection and promotion of mental health rights, particularly those relating to human dignity, freedom from discrimination, health rights, and access to remedies.

The rights encapsulated in the African Charter include right to enjoyment of rights without distinction of any kind (article 2), right to life (article 4), right to dignity of the human person (article 5), equality of all peoples (article 19), right to existence and self-determination (article 20), right to health (article 16), right to state responsibility for protection of vulnerable groups (article 18) amongst other rights.⁴⁵

3.1.6 Discrimination against Persons with Disabilities (Prohibition) Act 2018

Unfortunately, it is noteworthy to state that in Nigeria, mental health disabilities are not conspicuously addressed in the current disability law, the Discrimination against Persons with Disabilities (Prohibition) Act 2018. This act appears heavily slanted towards physical disabilities based on the tone of its specific provisions.⁴⁶

In spite of this, its interpretation section is quite helpful in additionally describing a person with disabilities as a person with long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on equal basis with others.⁴⁷

Thus, the specific mention of mental and intellectual impairment gives a broad-based applicability to the provisions of the law in terms of the variety of mental disorders which may

⁴⁵ O Nnamdi, 'the African Charter on Human and Peoples Right as Compatible with Despotism: The Nigerian Experience', *University of Benin Law Journal* [2005] 8(1) 113.

⁴⁶ A Akinsola, D Akintayo, O Ogunwobi and others, 'Mental Health and Disability Law in Nigeria: A Call for Affirmative Interpretation', [2022] available at <<https://www.researchgate.net/publication/366237859>> accessed on 16 July 2025.

⁴⁷ Discrimination against Persons with Disabilities (Prohibition) Act 2018, s. 57.

come under its purview.⁴⁸The law emphasizes the rights of people living with disabilities and the importance of them enjoying highest possible quality of life.

3.1.7 Violence against Persons Prohibition (VAPP) Act

The Violence against Persons (Prohibition) Act, 2015, commonly referred to as the VAPP Act, was enacted to address and eliminate all forms of violence and harmful practices against individuals in Nigeria. Although the Act is primarily geared towards protecting persons from physical, sexual, psychological, and emotional violence, it also serves as a critical legislative tool for safeguarding the mental health and psychological wellbeing of individuals, particularly victims of abuse.⁴⁹

3.1.8 Other Laws Relating to Mentally Ill Persons

1. **Election Laws:** The Constitution under Sections 66(1)(b), 107(1)(b), 137(1)(c), and 128(1)(c) provides that a person is disqualified from running for office in the Senate, House of Representative, the Office of the President and Governor, where he is adjudged a lunatic or person of unsound mind.⁵⁰
2. **Marriage Laws:** Section 5(1) (b) of the Matrimonial Causes Act provides that a marriage shall be voidable where either party, at the time of the marriage is of unsound mind, a mental defective; or subject to recurrent attacks of insanity or epilepsy.⁵¹
3. **Company Law:** Section 20 of the Companies and Allied Matters Act (CAMA) 2020 Provides that a person of unsound mind shall not join in the formation of the company.⁵²

⁴⁸ Senate of the Federal Republic of Nigeria, 'Nigeria discrimination against persons with disabilities (prohibition) act 2018 explanatory memorandum' [2019] available at <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/11/Nigeria_Discrimination-Against-Persons-with-Disabilities-Prohibition-Act-2018> accessed on 16 July 2025.

⁴⁹ Violence against Persons Prohibition Act 2015, s. 14.

⁵⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 66.

⁵¹ Matrimonial Causes Act, 2004, s. 5(1) (b).

⁵² Companies and Allied Matters Act 2020, s. 20.

Section 106 also disqualifies a person of unsound mind from becoming a member of a company. Likewise, a person of unsound mind is disqualified from being a director, receiver or liquidator of a company.⁵³ The Act also provides that a person of unsound mind cannot be a partner of a limited and limited liability partnership.⁵⁴

4. **Child Rights Law:** Section 11(a) of the Child Rights Act guarantees the right of a child to not be subjected to physical, mental or emotional injury.⁵⁵ Section 13(1) of the Act further establishes a child's right to enjoy the best attainable state of physical, mental and spiritual health. ⁵⁶With particular regard to children with mental disorders, Section 171(10) (b) recognises such children as children in need and imposes a duty on the state to safeguard and promote their welfare.⁵⁷
5. **Law of Evidence:** Section 175(2) of the Evidence Act 2011 provides that a person of unsound mind is, nevertheless, a competent witness unless such mental infirmity prevents him from understanding the questions asked and giving rational answers to them.⁵⁸

3.2 The Regional Mental Health and Human Rights Framework

The protection of mental health rights in Nigeria is not only a domestic concern but also a regional legal duty. As a member of the African Union, Nigeria is bound by several regional human rights instruments, Amongst these is the African Charter on Human and Peoples' Rights (ACHPR) and the Protocol to the African Charter on the Rights of Women in Africa (commonly referred to as the Maputo Protocol) These frameworks set forth binding obligations on state

⁵³Companies and Allied Matters Act (CAMA) 2020, s. 628 (b).

⁵⁴Companies and Allied Matters Act (CAMA) 2020, s. 747.

⁵⁵Child Rights Act, 2004, s.11 (a).

⁵⁶Child Rights Act, 2004, s. 13(1).

⁵⁷Child Rights Act, 2004, s. 71(10) (b).

⁵⁸ Evidence Act, 2011, s. 175(2).

parties, including Nigeria, to preserve and protect the rights of vulnerable persons, including people with mental health conditions.

3.2.1 African Charter on Human and People's Rights (1981)

In addition to domestic laws, Nigeria is bound by several regional legal instruments under the African human rights system that provide protection for the rights of persons with mental health conditions. These regional frameworks offer additional safeguards and guide states toward achieving better standards in mental health care, non-discrimination, and dignity.

As a signatory to and rectifier of these instruments, Nigeria is legally obliged to domesticate and give effect to their provisions under Section 12(1) of the 1999 Constitution.⁵⁹ These frameworks not only enrich the legal terrain but also provide interpretative support for Nigeria's domestic obligations toward persons with psychosocial disabilities.

The African Charter on Human and Peoples' Rights (African Charter)⁶⁰ establishes a system or framework for the promotion and protection of human rights in Africa within the framework of the Organization of African Unity (now AU). The African Charter came into force on 21 October 1986. The African Charter promotes a plethora of human rights such as civil and political, socio-economic and cultural, individual and collective rights.⁶¹ The African Charter is the first regional mechanism to incorporate the different classes of human rights in a single document. Nigeria has ratified and domesticated the African Charter on Human and Peoples Rights. The Charter guarantees several rights that are relevant to persons with mental health conditions, including:

⁵⁹Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 19(1).

⁶⁰ African Charter of Human and Peoples' Rights 1981, Article 1.

⁶¹ S Manisuli, *the African Regional Human Rights System: 30 Years after the African Charter on Human and Peoples' Rights* (Martinus Nijhoff Publishers 2012).

- (i) Right to Dignity⁶²- which Prohibits all forms of degrading treatment or punishment, which includes practices such as chaining, beating, and seclusion of mental health patients.
- (ii) Right to Health⁶³- this mandates state parties to ensure that individuals receive the highest attainable standard of physical and mental health.⁴
- (iii) Right to Non-Discrimination⁶⁴: Prohibits discrimination on grounds including mental or physical disability.
- (iv) Right to Personal Liberty and Protection from Arbitrary Detention⁶⁵: Offers safeguards against unlawful institutionalisation or forced confinement of mental health patients.

The Charter recognises the trends in the development of the human rights regime: first, second and third generation of human rights.⁶⁶

The first generation of Human Rights relates to the civil and political rights. This set of rights is embodied by the Universal Declaration of Human Rights (1948), as well as the International Covenant on Civil and Political Rights. These first generation rights pertain to the sanctity of the individuals in connection with his rights within the socio-political environment he belongs.⁶⁷

The second generation of rights is concerned with the total and full realisation of the worth of the individual within his milieu. These rights pertain to the economic social and cultural rights of the individual.⁶⁸

⁶² African Charter of Human and Peoples' Rights 1981, Article 5.

⁶³*Ibid*, Article 16.

⁶⁴*Ibid*, Article 2.

⁶⁵*Ibid*, Article 6.

⁶⁶EA Udu, *Human Rights in Africa*, (Mbeyi& Associates (Nig). Ltd, 2022)

⁶⁷*Ibid* (n 186).

⁶⁸*Ibid* (n 186)

The third generation of rights could be referred to as group rights, solidarity or people's rights. This set of rights is concerned with the organic, corporate existence and workings of the society.⁶⁹

- (i) **Civil and Political Rights:** The African Charter guarantees a considerable number of unqualified civil and political rights, some of which were aforementioned to be in relation to mental health rights: The right to enjoyment of right without any form of discrimination⁷⁰, equality before the law and equal protection of the law⁷¹, right to fair hearing with its multi dimensions⁷². The qualified civil and political rights include right to life⁷³, right to dignity of human person⁷⁴, right to liberty and security⁷⁵, right to freedom of movement⁷⁶, right to freedom of association⁷⁷, right to freedom of expression, information and knowledge⁷⁸.
- (ii) **Economic, Social, and Cultural Rights:** This encompasses the right to property which is subject, to the overriding principle of eminent domain⁷⁹, the right to work under equitable and satisfactory conditions and to receive equal pay for work⁸⁰, right to good health⁸¹

If the resources of the Nigerian state are better harnessed, and the traditional economic mismanagement and sabotage adequately checkmated, these economic, social and cultural

⁶⁹*Ibid*

⁷⁰ African Charter of Human and Peoples' Rights 1981, Article 2.

⁷¹*Ibid*, Article 3(1).

⁷²*Ibid*, Article 7(1).

⁷³*Ibid*, Article 4.

⁷⁴*Ibid* (n 182).

⁷⁵*Ibid* (n 195).

⁷⁶African Charter of Human and Peoples' Rights 1981, Art 12.

⁷⁷*Ibid*, Art. 9.

⁷⁸*Ibid*, Art. 10.

⁷⁹*Ibid*, Art. 14.

⁸⁰*Ibid*, Art. 15.

⁸¹ *Ibid* (n 183).

rights will be far from being make belief.⁸² It brings to question the applicability of these rights and how relatable are they to the enforcement of mental health rights in Nigeria.

3.2.2 The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, popularly known as the Maputo Protocol, was adopted in 2003 and ratified by Nigeria in 2004. Though it primarily focuses on women's rights, it contains specific provisions that are vital to protecting the mental health of women and girls.⁸³

The Women's Protocol recognizes and guarantees a wide range of women's civil, political, economic, social and cultural rights. Its main provisions include the following articles: Elimination of discrimination⁸⁴, Equality in marriage, divorce and inheritance⁸⁵, Equal opportunities in work⁸⁶, Health and reproductive rights⁸⁷, right to dignity⁸⁸, right to life, integrity and security of persons⁸⁹, right to peace⁹⁰ and right to a healthy and sustainable environment⁹¹

The Maputo Protocol thus reinforces the intersectional protection of gender and mental health rights, offering special recognition to the vulnerabilities faced by women with psychosocial disabilities in the health system.

⁸²EA Udu, *Human Rights in Africa*, (Mbeyi& Associates (Nig). Ltd, 2022).

⁸³ Amnesty International, *A Guide to the African Charter on Human and Peoples' Rights*, (London: Amnesty International Publications, 2006) 20-21.

⁸⁴ Protocol to the African Charter on Human and Peoples Right on the Rights of Women in Africa 2003, Art 2.

⁸⁵*Ibid*, Art. 6.

⁸⁶*Ibid*, Art. 13.

⁸⁷*Ibid*, Art. 14.

⁸⁸*Ibid*, Art. 3(1).

⁸⁹*Ibid*, Art. 4(1).

⁹⁰*Ibid*, Art 10 (1).

⁹¹*Ibid*, Art. 18.

In repositioning women to enjoy equal rights and streamline the human rights regime to the enjoyment of all individuals without discrimination, the African Union enacted the Maputo Protocol. Although, Nigeria has ratified the Protocol, it has not made significant pragmatic commitment in the area law, policy making and public sensitization to eliminate all forms of discrimination and harmful practices against women.⁹²

The women in Nigeria particularly, those in rural areas have continued to suffer denials, deprivations and have often fallen victim to domestic, verbal and emotional violence, harmful practices and discrimination.⁹³ Although there is no specific provision for mental health, it can be deduced from the above provisions to also imply the mental health of women.

3.1.1 The International Mental Health and Human Rights Framework

Mental health and human rights are inextricably linked. They are complementary approaches to the betterment of human beings. Some measure of mental health is indispensable for human rights because only those World Health Organization possess some reasonable level of functioning can engage in political and social life. On the Other hand, human rights are indispensable for mental health as they provide security from Harm or restraint and the freedom to form and express beliefs that are essential to mental wellbeing. Therefore, international and regional framework have addressed the human rights of Persons with mental illnesses through treaties, declarations and thematic resolutions.⁹⁴

The Rationale behind the signing of international treaties is to foster peace, unity and cooperation among member states, each member state is expected to enforce the provisions of the treaties In accordance with the modalities prescribed by their laws. The stringent

⁹² Ibid (n 202).

⁹³ Ibid.

⁹⁴ D Carla, 'Mental Health and Human Rights' [2014] available at <<https://klau.nd.edu>> accessed on 3 June 2025.

requirement of domestication of international treaties before enforceability was introduced into the laws of some dualist state parties like Nigeria, causing a hindrance to the speedy enforcement of treaty provisions and also creating a leeway for member states to evade their international obligations. Nigeria is a member of the International Community and as such has the capacity to enter into.⁹⁵

Nigeria is a member of the International Community and as such has the capacity to enter into International treaties, The country is also a signatory to several international agreements but Only a fraction of such agreements have been domesticated in our laws.⁹⁶ The provisions on the domestication of treaties in Nigeria are enshrined in the 1999 Constitution;⁹⁷ No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. In Nigeria therefore, by virtue of the above provision of section 12 of the CFRN 1999⁹⁸, courts do not have the power to apply the provision of a treaty without prior legislative approval. In addition to being a signatory to a treaty, such a treaty will have to be enacted by the National Assembly Before it can have the force of law before the Nigerian Court.

It is therefore important that countries that have ratified or adhered to international human rights conventions are obliged to respect, protect and fulfil the rights enshrined in them. Governments can conceive their human rights duties broadly to include respect for the State's obligation not to infringe upon human rights, protect the State's obligation to prevent private violations, fulfil the State's obligation to promote human rights.⁹⁹ Thus international human

⁹⁵ FM Olajide, 'Appraisal of the Legal Framework on Mental Health in Nigeria' [2023] available at <<https://www.researchgate.net/publication/374259786>> accessed at 3 June 2025.

⁹⁶ O Eke, 'Non-Domestication of Treaties in Nigeria as a Breach of International Obligations', [2020] available at <<https://www.mondaq.com/nigeria/international-trade-amp-investment/1013006/nondomestication-of-treaties-in-nigeria-as-a-breach-of-international-obligations>> accessed on 3 May 2025.

⁹⁷ Constitution of the Federal Republic of Nigeria 1999(as amended), s.12.

⁹⁸ *Ibid* (n 108).

⁹⁹ FA Onomrerhinor, 'A Re-Examination of the Requirement of Domestication of Treaties in Nigeria, *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, [2016] 7(2).

rights law places the onus on the State to safeguard the human rights of all people, including individuals with mental illnesses. Among these instruments are the International Bill of Rights, which includes the United Nations Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR) (1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).

3.1.1.1 International Conventions Provisions on Mental Health Rights.

The Universal Declaration of Human Rights (UDHR), establishes a fundamental set of human rights that applies to all persons. Article 1 of the Declaration provides that ‘all persons are free and equal in rights and dignity’, thereby setting up the legal basis that people with mental illnesses are protected by human rights law by virtue of their basic humanity.¹⁰⁰ It further provides that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, Widowhood, old age or other lack of livelihood in circumstances beyond his control.¹⁰¹ The Universal Declaration was followed by the two core UN human rights conventions established in 1966. These international covenants, although not specifically designed for the protection of Persons with mental illnesses, provide legally enforceable protection of human rights in State parties.

Article 12(1) of the International Covenant on Economic, Social and Cultural rights (ICESCR), requires governments to recognise ‘the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’. Article 12(2)(d) refers to the steps to be taken to ensure this right as including the creation of conditions which would assure access to

¹⁰⁰Universal Declaration of Human Rights 1948, Art 1.

¹⁰¹ Universal Declaration of Human Rights 1948, Art 25(1).

all medical service and medical attention in the event of sickness. The ICESCR binds those countries that are a party to it and hence binds Nigeria as a state party. However, the full implementation of the ICESCR depends upon the existence of effective domestic remedies enabling individuals and groups to enforce the rights guaranteed within it and there is some debate as to whether such remedies currently exist in Nigeria.¹⁰²

The ICESCR and General Comment No 14 thus set up a framework for the right to health and the right to access health facilities and services in general. Other international instruments refer more specifically to the rights of those with mental illnesses. Principle 1 of the United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (the UN Principles) also sets out the right to the ‘best available mental health care’.¹⁰³

There are also specific international instruments tailored towards women and children, as regards women, Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), provides that States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. Although Nigeria ratified CEDAW in 1985 without reservations, it has failed to domesticate its provisions. The Gender and Equal Opportunities Bill which is pending before the House of Representatives and the Senate is the CEDAW Domestication bill which seeks to incorporate provisions of CEDAW into national legislation.¹⁰⁴

¹⁰² International Covenant on Economic, Social and Cultural Rights 1966, Art 12.

¹⁰³ United Nations, ‘Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care’, [1999] available at <<http://www.unhcr.ch/html/menu3/b/68.htm>> accessed 4 June 2025.

¹⁰⁴ O Nwankwo, *Identifying Nigeria’s Commitment to the Convention on the Elimination of all forms of Discrimination against Women*, (Fourth Dimension Publisher. 2022).

Article 3(f) of the Declaration on the Elimination of Violence against Women provides that women are entitled to enjoyment and protection of human rights on an equal basis, including the right to the highest standard of physical and mental health attainable.¹⁰⁵ The Beijing Platform for action's Strategic Objective C recognises that sexual and gender-based violence puts women at a greater risk of mental health trauma. As a result, it invites states to promote and incorporate the right to health of women and girls into national legislation and policy.

With respect to children, Article 24 of the Convention on the Rights of the Child (CRC), provides that states parties shall recognise the right of the child to the enjoyment of the highest attainable standard of health, and shall strive to ensure that no child is deprived of his or her right of access to such health care services, and shall pursue full implementation of this right and, in particular, shall take appropriate measures to achieve these rights. The right of a child placed in mental health care to assess the conditions of their treatment is guaranteed by Article 25 of the Convention.

According to Article 27, a child has the right to a standard of living appropriate for their Physical, mental, spiritual, and moral growth. Similarly, Article 32 states that a child must be protected from any work that is detrimental to his or her mental development.¹⁰⁶ In 2003, Nigeria's National Assembly enacted the Child Rights Act (CRA), giving legal consent to both the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.¹⁰⁷

¹⁰⁵ United Nations General Assembly, 'Declaration on the Elimination of Violence against Women', [1993] available at <<https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>> accessed on 4 June 2025.

¹⁰⁶ Convention on the Rights of the Child 1989, Art 24-27.

¹⁰⁷ MA Usang, 'Why the Child's Rights Act still doesn't apply throughout Nigeria', [2020] available at <<https://www.google.com/amp/s/theconversation.com/amp/why-the-childs-rights-act-still-doesnt-applythroughout-nigeria-145345>> accessed on 28 July 2025.

While it is important to note that the adoption of the Declaration on the Rights of Mentally retarded Persons was a significant step toward recognizing and protecting the rights of people with intellectual disabilities.¹⁰⁸In his first report to the United Nations Commission on Human Rights, the Special Rapporteur on the Right to Health, Paul Hunt, identified a number of issues that needed particular attention, including mental health as a Subcategory of the right to health. Professor Hunt argues that the right to Health ‘must be integrated into national and international policy-making processes’ in order to ‘shape laws, policies, programs and projects’.¹⁰⁹

As well as these international instruments emphasising the right to the highest attainable standard of mental health and access to relevant health services, the World Health Organisation (WHO) is currently developing a Mental Health Legislation Manual as part of a larger effort by the WHO Department of Mental Health and Substance Dependence ‘to protect and Promote the human rights of people with mental disorders’.¹¹⁰ The Mental Health Legislation Manual will address policy and implementation issues as well as the contents of the legal framework for mental health care in order to provide guidance for national legislation ‘without the imprimatur of an International mandate’.¹¹¹ While significant steps have been taken in the recognition and protection of mental health rights, it is crucial to highlight that societal attitudes and approaches towards mental health still has a long way in progression and evolution.

¹⁰⁸ Declaration on the Rights of Mentally Retarded Persons 1971, Art 1.

¹⁰⁹ E Lee and DJ Horndup, ‘*the Right to Health: An Interview with Professor Paul Hunt*’, (Essex Human Rights Review 2005) 55-57.

¹¹⁰ World Health Organisation, ‘Mental health: Promoting and Protecting Human Rights’, [2023] available at <<https://www.who.int/news-room/questions-and-answers/item/mental-health-promoting-and-protecting-human-rights>> accessed on 4 June 2025.

¹¹¹ L Gostin and L Gable, ‘The Human Rights of Persons with Mental Disabilities: A Global Perspective on the Application of Human Rights Principles to Mental Health’, [2004] available at <https://www.researchgate.net/publication/8159749_The_Human_Rights_of_Persons_with_Mental_Disabilities_A_Global_Perspective_on_the_Application_of_Human_Rights_Principles_to_Mental_Health> accessed on 4 June 2025.

3.4 Institutional Frameworks on Mental Health Rights

The realisation of the rights of mental health patients in Nigeria depends largely on the presence and functionality of institutional frameworks. These frameworks comprise government ministries, specialised agencies, health institutions, civil society organisations, and international partners, all working, individually or collaboratively, to formulate policies, deliver services, and protect mental health rights. This chapter examines the role and impact of these institutions in advancing the rights of persons with mental health conditions in Nigeria.

3.4.1 The Federal Ministry of Health (FMoH)

The Federal Ministry of Health (FMoH) is the chief governmental body responsible for developing national health policies and implementing healthcare services, including those related to mental health. The Federal Ministry of Health in collaboration with relevant stakeholders facilitated the process of the enactment of the National Mental Health Act. This law aims to promote and protect the rights of persons with mental health conditions, intellectual, psychosocial or cognitive disabilities, and to promote the enhancement and regulation of mental health services in Nigeria.¹¹² Through the department of public health, particularly its mental health desk, the ministry has developed essential documents such as the *National Mental Health Policy 2021*, which advocates the integration of mental health into primary health care and promotes a rights-based, community-focused approach to mental health delivery.¹¹³ The 1991 Policy recognised the need to revise the then obsolete laws relating to persons with mental health conditions in Nigerian statutes, as well as stating explicitly that ‘...individuals with Mental, neurological and psychological disorders shall have the same rights to treatment and support as those with physical illness and shall be treated in health

¹¹² Federal Ministry of Health, ‘National Mental Health Policy’, [2021] available at <<https://thesunshineseriesng.com>> accessed on 13 June 2025.

¹¹³ *Ibid* (n 164).

facilities as close as possible to their own community’ and that ‘no person shall suffer discrimination on account of mental illness’.¹¹⁴

Following the enactment of the Mental Health Act 2023, the FMoH has been legally mandated to coordinate national mental health services and policies. The Act assigns to the Ministry the responsibility of establishing and managing the Mental Health Fund, developing minimum service standards for mental health facilities, promoting mental health education and research, and monitoring compliance with patient rights protections.¹¹⁵

Despite these responsibilities, the Ministry faces practical challenges in implementation due to limited funding, poor infrastructure, and a shortage of mental health professionals. Nevertheless, the FMoH remains central to the institutional framework for protecting mental health rights in Nigeria.

3.4.2 The National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) was established by the NHRC Act 2004 (as amended) with the mandate to promote and protect human rights in Nigeria. The Commission is empowered to investigate complaints of human rights violations, issue reports and recommendations, and create awareness on human rights norms.¹¹⁶

In the context of mental health, the NHRC plays an important role in addressing abuses suffered by patients in psychiatric institutions, rehabilitation centres, and correctional facilities. It investigates complaints of forced institutionalisation, inhumane treatment, denial of legal capacity, and discrimination based on mental health status. The Commission is encouraged with the adoption of a new National Health Policy by the federal government in addition to the

¹¹⁴*Ibid* (n 164).

¹¹⁵ Mental Health Act, 2023, ss. 2-5.

¹¹⁶National Human Rights Commission Act, 2004 (as amended), s.6.

existing Mental Health Act and the National Health Insurance Scheme which are all geared towards improving access and affordability to health services by the citizens including persons with special needs.¹¹⁷ The Commission has also partnered with NGOs to conduct legal clinics and mental health rights workshops across various regions.¹¹⁸

The NHRC is involved in efforts to transition mental health patients from institutional settings to community-based care. They advocate for the development of policies and programs that support the deinstitutionalization of people with disabilities, including those with mental health conditions. The commission works to ensure that community-based mental healthcare services are accessible, affordable, and of high quality.¹¹⁹

However, the NHRC's ability to protect mental health patients is sometimes limited by inadequate staff training on psychosocial disabilities and lack of enforceable sanctions for rights violations. Nonetheless, its role remains pivotal in ensuring mental health rights are respected under national and international human rights standards.

3.4.3 The Federal Neuro-Psychiatric Hospitals (FNPHs)

There are eight Federal Neuro-Psychiatric Hospitals spread across the six geopolitical zones of Nigeria. These hospitals provide specialised mental health care and conduct training and research in psychiatry and related fields. Sources report that there are eight federal neuropsychiatric hospitals in Nigeria. An October 2020 BBC article¹²⁰ observes that there are fewer than 15 state-run neuropsychiatric centres in Nigeria, which restricts access for many individuals, particularly in rural areas. In correspondence with the Research Directorate, the World Health Organisation Nigeria Country Office stated that 'inpatient and outpatient mental

¹¹⁷ National Human Rights Commission, Annual Report on Human Rights Violations, 2022, pp. 3

¹¹⁸ *Ibid* (n 171).

¹¹⁹ *Ibid* (n 172)

¹²⁰ O Nduka and S Adamu. 'Why Some Nigerian Families Lock Up Children and the Mentally Ill.' [2020] available at <<https://www.bbc.com>> accessed on 13 June 2025.

health services including psychological and psychiatric services are available in Nigeria. However, access to comprehensive mental health services is more readily available in urban areas compared to rural areas'¹²¹. A resident psychiatrist at the Federal Neuropsychiatric hospital in Lagos interviewed by CNN stated that "we don't really have [mental health professionals] in rural areas. And if someone lives in such areas without mental health care, of course, they will find alternatives for care like traditional healers or churches"¹²².

3.4.4 Non-Governmental Organisations (NGOs) and Civil Society

NGOs have been instrumental in filling the gaps left by government institutions, particularly in advocacy, public education, community-based services, and legal empowerment. Prominent among them are:

- a. Mentally Aware Nigeria Initiative (MANI): Nigeria's largest youth-run mental health organisation, focusing on awareness, suicide prevention, and online support.¹²³
- b. She Writes Woman: Offers legal advocacy and trauma support services, including litigation for patients unlawfully detained or abused.¹²⁴
- c. Psych-Aid Foundation and Asido Foundation: Provide counselling, public education, and policy advocacy.

However, study shows that in the North, only one NGO focusing on community mental health services was found in one of the three States; even at that, the NGO primarily and initially focused on sight-saving (common eye problems) but only expanded its services to address some aspects of the stark community mental health services expected as part of its rehabilitative

¹²¹ UN report, October 7, 2020 available at <<https://news.un.org>> accessed on 13 June 2025.

¹²² S Aisha, 'Chained and Locked Up, Why Some Nigerians Turn to Religion First to Treat the Mentally Ill.' [2020] available at <<https://www.cnn.com>> accessed on 13 June 2025.

¹²³ Mentally Aware Nigeria Initiative (MANI), 'Our Work', [2016] available at <<https://www.mentallyaware.org>> accessed on 13 June 2025.

¹²⁴ She Writes Woman, Annual Legal Advocacy Report, 2022, p. 10.

mission. The implications of this non-availability of any mental health NGOs in the study area is community mental health services such as psycho-education, mental health first aid, and other primary mental health care that should have been powered by NGOs interventions will remain absent. Thus, wide treatment/intervention gaps remain. Avoidable mental health problems may arise, and the existing ones worsen.¹²⁵

This situation, the non-existence of NGOs in addition to the lack of formal mental health services in areas¹²⁶, leaves these communities with existing and looming mental health and psychological problems.¹²⁷

These organisations challenge societal stigma, promote help-seeking behaviour, and push for systemic reforms. However, they often rely heavily on donor funding and face barriers when trying to access psychiatric wards or obtain information on institutional abuses.

¹²⁵ E Anyebe, 'The Role of Non-Governmental Organisations (NGOs) in Community-based Mental Health Services in Northern Nigeria: Prospects and Challenges', *Texila International Journal*, [2021] (1) 12-13.

¹²⁶ *Ibid* (n 179).

¹²⁷ E Anyebe, VO Olisa, and FT Nuhu, 'Mental Health Problems in Northern Nigerian communities – An Exploratory Study', *Journal of Physical and Life Sciences*, [2017] (2) 33-34.

CHAPTER FOUR

APPRAISAL OF THE RIGHTS OF MENTAL HEALTH PATIENTS IN NIGERIA

4.1 Introduction

Despite the existence of a growing body of international and domestic human rights instruments in Nigeria, the rights of persons with mental health conditions have historically been inadequately protected. The rights protected under the laws are;

(i) Right to Against Involuntary Admissions and Detentions

The Lunacy Act had been able to address certain basic issues relating to mental healthcare, such as; it managed to ensure some degree of compliance with the World Health Organisations recommendations in the areas of provisions for emergency and involuntary admissions (although not separate from treatment), general reference to the level of competence required for the determination of mental disorder, provision of oversight and review mechanisms (by way of ‘visiting committees’) as well as a section dealing with offences committed by asylum officials and the appropriate sanctions.¹

However, it had several ambiguities and weaknesses its age (at almost a century) clearly suggests that it must suffer from some anachronism. The Lunacy Act applies federally, and across the vast majority of States. It does not once mention treatment and uses pejorative words like ‘lunatic’ and ‘idiot’. It also permits magistrates to order the detention of the mentally ill, including those World Health Organization attempt suicide or engage in self-harm.²

¹*Ibid*

²*Ibid* (n 253).

The trajectory of the law truly worsened when its amendment birthed the Lunacy Act 1958 which was considered crude and oppressive.³ Among its many questionable provisions, the law advocated for the forceful detention of persons with mental ill-health. The Lunacy Act considered the maintenance of law and order as its superordinate objective disdaining the rights and freedoms of people suffering from mental illnesses this perhaps, exacerbated the stigma that still exists in Nigerian culture or was at least a reflection of how the society perceived mental ill-health.⁴ Under the Act, there is a shift from the generalization of mental disorders as lunacy, madness or even ‘spiritual attacks’ from unnatural causes. Such misinformed perception has led to the stigma present today on mental health patients.

(ii) Right to be absolved of criminal liability

The court, in the case of *R v. M'Naghten*⁵ also considers what the criminal liability of a mentally ill person should be, which was not specified under the Lunacy Act.

A significant achievement of the Mental Health Act is provided for in Part IV, sections 46-48 titled Persons with Mental Health Conditions and Criminal Proceedings.⁶ These sections made provisions for admission of a criminal patient, compulsory order with restriction; and removal to hospital of an inmate⁷ among others. Again, these provisions were not included in the previous acts.

(iii) Right to Freedom from Discrimination

³ U Paula, ‘Policy Analysis on Nigerian Lunacy Act (1958): The Need for a New Legislation’, [2015] available at https://www.researchgate.net/publication/295099204_Policy_Analysis_on_Nigerian_Lunacy_Act_1958_The_Need_for_a_New_Legislation accessed on 28 July 2025.

⁴ *Ibid* (n 260).

⁵ European Report 718, No 8.

⁶ National Mental Health Act, 2023, ss. 46-48.

⁷ *Ibid* (n 268).

The National Mental Health Act, 2021,⁸ which came into force on 5th January 2023 has several provisions which guarantee that persons with mental health conditions are not subjected to discrimination as it relates to their health rights, property/housing rights, employment right as well as cultural, social and religious rights.⁹

In order to ensure that those living with mental health conditions are not discriminated against, the law makes provision for quality and standard treatment for those with mental health conditions to the effect that those with mental health conditions are entitled to the same standard of care as a person with physical health problems and shall be treated on an equitable basis including quality of in-patient food, bedding, sanitation, buildings, levels and qualifications of the staff, medical and related services and access to essential medicines.¹⁰

The law guarantees that persons with mental ill-health and substance use disorders are not subjected to discrimination, whether in terms of access to healthcare or even in the exercise of their cultural, social, and religious rights.¹¹

(iv) Right to Mental Health Care Services

The major strength of the Mental Health Act in my humble view, being the key legislation on the rights of mental health patients in Nigeria, is that it has a clear provision on the right to Mental Health services.¹²The National Mental Health Act, of 2021 provides that a person with mental health conditions has the right to appropriate, affordable and accessible physical and mental health care services, counselling, rehabilitation and after-care support.

⁸National Mental Health Act, s. 2.

⁹ OM Atoyebi, 'A Critical Examination of the Rights of Persons with Mental Health Illness in Nigeria', [2025] available at <<https://omaplex.com.ng/a-critical-examination-of-the-rights-of-persons-with-mental-health-illness-in-nigeria/>>accessed on 28 July 2025.

¹⁰ Mental Health Act 2023, s. 16.

¹¹ National Mental Health Act, 2023, s. 12.

¹² Mental Health Act 2023, s. 15.

It is worthy of note that the provisions of the Act covered virtually all aspects of mental health care in consonance with globally accepted standard as against the previous Lunacy Act 1916, Lunacy Act 1958, among others.¹³

The African Charter has been relied upon by Nigerian courts to promote socio-economic rights. For example, in the case of *Odafe and Others v. Attorney General of the Federation*,¹⁴ the right of prisoners to medical care was held to be enforceable by the Federal High Court.

In relation to Mental Health Rights, as aforementioned, Article 16 of the charter is the first mention of the provision for mental health rights.¹⁵ The African Charter promotes a plethora of human rights such as civil and political, socio-economic and cultural, individual and collective rights.¹⁶

Article 25(1) of the Universal Declaration of Human Rights also recognises the right to a standard of living adequate for health and well-being, including medical care and necessary social services.¹⁷ Article 5 also states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment¹⁸

(v) **Rights to Societal Well Being**

Sections 12-14 of the Act provide for “Rights of persons in need of mental health care services, employment rights; housing, right to mental health care services, right to quality and standard treatment, right to appoint legal representation, right to participate in treatment planning; to confidentiality and protection of persons with mental conditions”¹⁹ respectively. These were

¹³ AU Augustine, E Anthony, ‘An Appraisal of Mental Health Legislations Vis-À-Vis Provisions of Mental Health Care in Nigeria’, *Unizik Journal of Commercial and Property Law*, [2023] 10(2).

¹⁴ *Odafe and Others v. Attorney General of the Federation* (2005) CHR 309 at 323–24.

¹⁵ *Ibid* (n 295).

¹⁶ EA Udu, *Human Rights in Africa*, (Mbeyi & Associates (Nig). Ltd, 2022)

¹⁷ Universal Declaration of Human Rights 1948, Art 25(1).

¹⁸ *Ibid*.

¹⁹ National Mental Health Act, 2023, s. 12.

obviously omitted in the previous defunct mental health legislations in the country. Also, the new Act entrenches the human rights protection for mentally ill persons such that they can live as humane, decent, and normal a life as possible, including access to education, vocational training, leisure and recreation, employment, and participation in civil, economic, social, cultural and political activities²⁰

In a bid to ensure the objectives of the new Act are realized, this law also institutes the Department of Mental Health Services to implement and facilitate the provisions enacted in the Act for primary mental healthcare.²¹ Though anticipated to operate as a body within the Federal Ministry of Health, this Department will facilitate mental health policies, undergo collaborative projects with other agencies guarantee access to mental healthcare services. This department is to safeguard the rights of persons with such illnesses and related disorders.

Although since the enactment of the Act, there is yet to be a confirmation that the body has been set up. Nonetheless, this will aid the enforcement of the new Act.²²

The major ambiguities of the African Charter can be seen in Article 5 which protects the right to dignity²³, Article 6 which guarantees personal liberty and Article 16 which affirms the right to the highest attainable standard of physical and mental health²⁴. These provisions are framed in general terms and do not address the unique vulnerabilities of persons with mental health conditions

²⁰*Ibid* (n 272).

²¹ National Mental Health Act, 2023, s. 2.

²²*Ibid* (n 274).

²³*Ibid* (n 294).

²⁴*Ibid* (n 295).

Concerning the implementation gaps in Nigeria, despite the domestication, implementation in the area of mental health has been extremely limited, Law enforcement, medical practitioners, and courts rarely invoke the Charter in mental health cases due to lack of awareness or training.

International human rights Instruments create a number of broad protections that provide important rights to people with mental illnesses²⁵, such as: the right to the highest attainable standard of physical and mental health; protections against discrimination; protections against torture, inhuman, or degrading treatment; and protection against arbitrary detention.²⁶

The international human rights framework requires that countries adopt a rights-based approach to legislation on mental health. Mental health is a fundamental human rights concern and essential to realize the right to health.²⁷

(vi) **Right against Sexual Harassment**

There were also remarkable provisions such as the provision concerning the violation of rights of persons with mental health disorders²⁸ and that regarding sexual harassment of mental health patients²⁹. Interestingly, the law does not make provision for consent with regards to sexual intercourse with persons having mental health conditions.

As seen in the case of *Kyari v FRN & Ors*³⁰ To this effect, consent shall not serve as a defence, as in law, express mention of one thing excludes others as often expressed in the legal maxim; *expressio unius est exclusio*.

²⁵ W Penny, 'the Right to Health: The Convention on the Rights of Persons with Disabilities', *Alternative Law Journal*, [2010] (2) (35).

²⁶ *Ibid* (n 320).

²⁷ World Health Organisation, 'Mental Health, Human Rights and Legislation: Guidance and Practice', [2023] available at <<http://apps.who.int/iris>> accessed on 6 August 2025.

²⁸ National Mental Health Act, 2023, s. 51(1).

²⁹ National Mental Health Act, 2023, s. 55.

³⁰ *Kyari V Frn & Ors* (2024) Lperl – 62768 (Ca).

However, one major defect in the act and aspect that is missing in the Act is that bordering on after care following detention and discharge. For example, section 117 of the Mental Act (England and Wales) places a statutory duty on health and social services providers to provide after care services for patients World Health Organization have been discharged from detention.³¹ It also provided for the creation of the Care Programme Approach (CPA) which was introduced in 1991 to be used for all patients where appropriate, even if they have not been detained in the hospital.³²

Another distinctive feature is that the African Charter provided that Laws and policies must respect and protect the sexual and reproductive rights of women. Action must be taken to end harmful practices, including female genital mutilation.³³

While a state may not be able to guarantee the physical and mental well-being of everyone, it can and should provide an environment that enhances the enjoyment of good health rather than undermines it.³⁴

The Violence against Persons Prohibition Act 2014 seeks to eliminate violence in private and public life; prohibit all forms of violence, including physical, sexual, psychological, domestic, harmful traditional practices; discrimination against persons and to provide maximum protection and effective remedies for victims and punishment of offenders.³⁵

³¹ Mental Health Act, (England and Wales), s. 117.

³² *Ibid* (n 277).

³³ *Ibid* (n 296).

³⁴ Amnesty International, *a Guide to the African Charter on Human and Peoples' Rights*, (Amnesty International Publications, 2006) 20-21.

³⁵ Violence against Persons Prohibition Act 2015, Art 1.

(vii) **Right to Vote**

A major defect in the act is seen that there was no provision for the civil issues as regards voting rights, parental issues etc. Does a person with mental health issues have the right to vote? No provision in the act addressed this.

The provision of Section 46 of the act can be seen to be ambiguous as regards the mental health disorder that can be considered.³⁶ Can the issue of anxiety disorders, depression, grief, constitute mental health factors of issues?

Furthermore as regards the implementation of the provisions of the act, The Mental Health Assessment Committee is an adjudicatory body to be set up by the governing Board of the Department of Mental Health Services.³⁷ This Tribunal is constituted by persons with diverse interests and perspectives on mental health rights and treatments, including legal practitioners, psychiatrists; medical social workers, representatives of civil societies focused on mental health as well as a religious or traditional leader.

The body is expected to hear and investigate complaints on persons detained contrary to the provisions of the Act as well as to review and monitor involuntary admission and treatment, long-term voluntary admission, treatments that require a second opinion, amongst others.³⁸

Since the enactment of the act, there is the question of how effective the body has been in investigating complaints in Nigeria and reviewing mental health issues.

In enforcing these rights it is trite to note that, it is trite that where there is a right, there is a remedy, as is often expressed by the Latin maxim, *ubi jus ibi remedium*.³⁹ This principle obliges

³⁶ Mental Health Act, 2023, s. 46.

³⁷ National Mental Health Act, s. 9.

³⁸ *Ibid* (n 281).

³⁹ OM Atoyebi, 'A Critical Examination of the Rights of Persons with Mental Health Illness in Nigeria', [2025] available at <<https://omaplex.com.ng/a-critical-examination-of-the-rights-of-persons-with-mental-health-illness-in-nigeria/>> accessed on 28 July 2025.

the Court to provide remedy whenever the Plaintiff has established a legally recognized right as the Court cannot rule otherwise.⁴⁰ Thus, having established from the fore-going, the rights of persons living with mental illness, our jurisprudence ensures that if the right of persons living with mental illness is violated, the Court readily becomes the appropriate place to enforce such right.

(viii) Right to Seek Redress for Wrong Done in a Court of Law

These rights may be enforced against both private and corporate entity as well as public bodies such as the Federal Ministry of Health which is a relevant stakeholder. However, it is pertinent to note that in instituting an action against the Federal Ministry of health for the enforcement of the right of a victim of mental illness, due regard must be given to Section 56 of the Mental Health Act which makes provision for a pre-action notice to be served on the Ministry.⁴¹ This provision seems sufficient, but it is still questionable on how effective it is in the enforcement of the rights provided for in the in the act are.

(ix) Right to Personal Liberty

The Constitution provides in Section 35(1) (e)⁴² that the personal liberty of persons with unsound mind can be deprived for the purpose of their care or treatment or the protection of the community. In reality, there is non-compliance to the wordings of the provision, persons that are mentally ill are deprived of their personal liberty against the provisions of the Constitution. They are sometimes chained, caged or imprisoned in a room without ventilation. Their experiences go from the sad to the utterly despicable.⁴³

⁴⁰ *Bello & ors v AG Oyo State* (1986) Lpelr – 764 (Sc).

⁴¹ *Ibid* (n 283).

⁴² Constitution of the *Federal Republic of Nigeria* 1999 (as amended), s. 35.

⁴³ OB Gabriel, 'Mental Health: The Plight of Persons with Unsound Mind in Nigeria', [2022] available at <<https://ssrn.com/abstract=4055617>> accessed on 28 July 2025.

(x) **Right to Dignity**

Section 34 of the 1999 Constitution of the Federal Republic of Nigeria⁴⁴, elaborated on the human dignity of every citizen of Nigeria. This section is also applicable to mentally ill persons. Contrary to the foregoing provisions, mentally ill persons are subject to harsh conditions, abusive treatments and are most times used as a means of generating income; methods that are against their human dignity are deployed. In the same vein, section 42(2)⁴⁵ made provision for the right of the mentally ill persons to the effect that no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. Therefore, this section fights against subjecting the mentally ill person to discrimination.

Regardless of all the rights above, there is no provision of the constitution of the federal republic of Nigeria, which is the grundnorm of all laws, that states persons have the right to Mental Health, all that can be made are inferences.

The major strengths of the charter include its protection of the right to dignity and prohibition of torture, cruel and inhumane treatment, this is particularly applicable in contexts where mental health patients are restrained, beaten, or subjected to degrading conditions in traditional or unregulated institutions.⁴⁶ Article 16 also provides specifically for right to the highest attainable state of physical and mental health, placing an obligation on the state to make mental health services available and accessible.⁴⁷

The Nigerian Supreme Court confirmed in the case of *General Sani Abacha v. Chief Gani Fawehinmi*⁴⁸ that the Charter is part of Nigerian law and courts must enforce the rights

⁴⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 34.

⁴⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 42.

⁴⁶ African Charter on Human and Peoples Rights (ratification and enforcement) Act, Art 5.

⁴⁷ *Ibid*, Art. 16.

⁴⁸ *General Sani Abacha v. Chief GaniFawehinmi* (2000) SC No 45/1997.

provided by it. The charter has the binding obligations on Nigeria to protect and promote all human rights, including those related to mental health.

However there is a gap in the enforcement in Nigeria⁴⁹, and the enjoyment of the rights among the people. There is also limited case laws and judicial blessings on the issue of enforcement of mental health rights through the Charter.

(xi) **Protection against Violence and Abuse**

Section 2 defines violence broadly to include mental and emotional harm, giving legal recognition to non-physical injuries.⁵⁰

Section 14 criminalises emotional, verbal and psychological abuse, thus recognizing mental health injuries as real and punishable offences. This is critical in a context where psychological abuse—within households, schools, or even healthcare settings—often goes unreported.⁵¹

The major drawback in relation to this law is its limited application to the Federal Capital Territory, Abuja⁵² and only the High Court of the Federal Capital Territory Abuja empowered by an Act of Parliament has the jurisdiction to hear and grant any application brought under the Act.

(xii) **Right to Reproductive Health**

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) does not specifically mention the rights in relation to mental health patients, however, several provisions have strong implications for mental well-being,

⁴⁹African Charter on Human and Peoples Rights (ratification and enforcement) Act, Art 62.

⁵⁰*Ibid*, s. 2.

⁵¹*Ibid* (n 293).

⁵² Law Pavallion, 'the Violence against Persons (Prohibition) Act, 2015', [2023] available at <<https://www.google.com/amp/s/lawpavilion.com/blog/the-violence-against-persons-prohibition-act-2015/amp/>> accessed on 5 August 2025.

particularly in relation to violence, reproductive rights, and dignity. The protocol stands against the physical, sexual and psychological threats to women.⁵³ Articles 3 -5 states that Women may not be exploited or degraded. States must protect women from all forms of violence, including sexual and verbal violence, whether the abuse takes place in the home or in public. To achieve this, states must take steps to prevent, punish and eradicate violence against women⁵⁴. This guarantees women's right to dignity and security of person, prohibiting all forms of violence including physical, sexual, and psychological harm⁵⁵. All forms of harmful practices such as female genital mutilation which are known to cause long-term mental health consequences, must be prohibited by law. Victims of such practices must receive all necessary support, including access to health services, legal support and counselling.⁵⁶

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) supports mental health protections especially for women affected by gender-based violence, abuse, or harmful cultural practices, but it does not explicitly mention mental health and provides more for maternal health, non- discrimination and elimination of harmful practices.⁵⁷

(xiii) **Right against Harmful Practices**

Article 14 (2) (c) of the Maputo Protocol, Emphasizes protection against practices that undermine health and dignity, indirectly referencing trauma-related experiences affecting mental well-being. These provisions, though powerful, simply imply the protection of mental health but are not supported by explicit mental health protections and, making their application

⁵³EA Udu, *Human Rights in Africa*, (Mbeyi & Associates (Nig). Ltd, 2022)

⁵⁴ The Protocol to the African Charter on Human and Peoples' Rights on Women's Rights, Art 3.

⁵⁵*Ibid*, Art. 4(1).

⁵⁶*Ibid*, Art. 5.

⁵⁷Convention on the Elimination of All Forms of Discrimination against Women, Art 12.

heavily dependent on interpretation.⁵⁸ This is the major challenge with the Protocol with regards to mental health.

An implementation gap to the protocol is the Low public and institutional awareness as many legal practitioners and policymakers lack awareness of the protocol's provisions, resulting in underutilisation. The protocol has also not been domesticated by countries such as Nigeria.

The Universal Declaration of Human Rights (UDHR) 1948 is one of the instruments for the protection of mental health rights. Although the Universal Declaration of Human Rights is not, in itself, a legally binding instrument, it establishes a fundamental set of human rights that applies to all nations and can act as a persuasive force in the court, as seen in the case of *Abacha v Fawehinmi*⁵⁹. Article 1 of the Declaration provides that “all people are free and equal in rights and dignity”, setting up that people with mental illnesses are protected by human rights law by virtue of their basic humanity.⁶⁰

Despite its importance, the UDHR has several limitations when applied to mental health rights, firstly there was explicit mention of mental health, the term “mental health” or “mental illness” does not appear in the UDHR. This omission has led to inconsistent application, especially in mental health policies of member states.

There is also vagueness of provisions, terms like “dignity,” “health,” and “inhuman treatment” are open to subjective interpretation, which can limit their enforceability in specific mental health scenarios (e.g., involuntary confinement, forced treatment, etc.).

⁵⁸ Amnesty International, *a Guide to the African Charter on Human and Peoples' Rights*, (London: Amnesty International Publications, 2006) 20-21.

⁵⁹ *Abacha v Fawehinmi* [2000] 6 NWLR (Pt 660) 228.

⁶⁰ *Ibid* (n 319).

(xiv) **Right to Recognition before the Law**

The Convention on the Rights of Persons with Disabilities (CRPD), Article 1 defines persons with disabilities to include those with “mental impairments” that hinder full participation in society.⁶¹ Article 12 recognises the right to equal recognition before the law, including legal capacity.⁶² Article 14 prohibits deprivation of liberty solely on the basis of disability, directly challenging the use of involuntary psychiatric detention.⁶³ Article 25 mandates non-discriminatory access to healthcare, including mental health care.⁶⁴

The Convention gives substance to the complex nature of the right to health by adopting a social, rather than a medical, model of disability. The social model of disability addresses environmental constraints that limit people with disabilities to engage in community life, emphasizing the relationship between stigma, discrimination, structural inequalities, inadequate service provision and deficits in health.⁶⁵

The CRPD provides a framework for ensuring that mental health laws fully recognize the rights of those with mental illness. The CRPD enshrines the most advanced international human rights standards relating to the rights of persons with disabilities, including persons with mental health conditions and psychosocial disabilities. It challenges traditional understandings of disability, equality, and personhood, and supersedes previous “soft law” instruments, such as the Principles for the protection of Persons with Mental Illness and the Improvement of Mental Health Care.⁶⁶

⁶¹ Convention on the Rights of Persons Living with Disabilities 2006, Art 1.

⁶² *Ibid.*, Art. 12.

⁶³ *Ibid.*, Art. 14.

⁶⁴ *Ibid.*, Art. 25.

⁶⁵ *Ibid.*

⁶⁶ World Health Organisation, ‘Mental Health, Human Rights and Legislation: Guidance and Practice’, [2023] available at <<http://apps.who.int/iris>> accessed on 6 August 2025.

Another strength is that the CRPD recognizes that disability is an evolving concept resulting from the interaction between persons with actual or perceived impairments and attitudinal and environmental barriers. For too long, under the medical model, mental health conditions and psychosocial disabilities were understood to be problems residing in the individual; the ultimate aim was to “cure” or “fix” the person so that they could become “normal”.⁶⁷ Rather than promoting social change, diversity and inclusion, the medical model implied that persons with mental health conditions and psychosocial disabilities needed, themselves, to change, which has led historically to disempowerment, discrimination and institutionalization.⁶⁸

The CRPD also shifts the focus to the interaction between the individual and the environment. Under this model, persons with mental health conditions and psychosocial disabilities are part of human diversity. The CRPD also reaffirms that all persons with disabilities have the same rights as any other person in society.⁶⁹

However though Nigeria ratified the CRPD in 2007, there was no domestication until related provisions were partially reflected in the Discrimination against Persons with Disabilities Act 2018. The CRPD does not provide clear enforcement mechanisms at the national level. The ambiguity in terms like “reasonable accommodation” or “individual autonomy” allows for inconsistent interpretation.

The Convention on the Rights of the Child, however has major strengths in the provisions of mental health rights for children; Sound mental health is a vital for physical health and is central

⁶⁷*Ibid.*

⁶⁸*Ibid.*

⁶⁹*Ibid* (n 338).

to a child or young persons, ability to succeed in school, in higher education, in work and in society.⁷⁰

Mental health is implicitly protected, particularly in relation to trauma, abuse, and child development. Article 23 of the Convention provides for special care for mentally or physically disabled children.⁷¹ Article 24 also provides for the highest attainable standard of health, including mental health.⁷² Article 39 highlights the right to psychological recovery and reintegration from neglect, abuse, or armed conflict.⁷³ Article 27 states that parties should recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.⁷⁴

There is however, Lack of enforcement mechanisms for institutional abuse or mistreatment of mentally ill children in care homes or schools.

4.4 Issues Regarding Mental Health in Nigeria

Mental health patients in Nigeria face multi-layered challenges that undermine the realization of their fundamental human rights. These issues span cultural stigma, systemic discrimination, outdated legal frameworks, and abuses in informal care settings. Despite legal advancements, the rights of this vulnerable group are often ignored in both public policy and social practice.

4.4.1 Stigmatization

Stigma refers to the discrediting, devaluing, and shaming of a person because of characteristics or attributes that they possess. Generally, stigma leads to negative social experiences such as

⁷⁰ J Macdonald, 'Do Children Have a Right to Mental Health' [2017] available at <<https://www.swansea.ac.uk/media/2017-Observatory-Annual-Lecture-MR-JUSTICE-MACDONALD.pdf>> accessed on 6 August 2025.

⁷¹ Convention on the Rights of a Child, Art. 23.

⁷² *Ibid*, Art. 24.

⁷³ *Ibid*, Art. 39.

⁷⁴ *Ibid*, Art. 27.

isolation, rejection, marginalization, and discrimination. If related to a health condition such as mental illness, stigma may affect a person's illness and treatment course, including access to appropriate and professional medical treatment. Stigma has also been reported to affect patients' families or relatives, along with professionals World Health Organization work in mental healthcare settings.⁷⁵

4.4.1.1 Causes of Stigmatization

(i) Cultural and Religious Beliefs

Mental illness is often explained in traditional Nigerian society through supernatural frameworks. People with mental health conditions are frequently thought to be cursed, possessed, or being punished by ancestral spirits.⁷⁶ As a result, they are taken to churches, mosques, and traditional shrines for spiritual healing, where they are often subjected to abuse and dehumanizing treatment such as chaining and beating.⁷⁷ This spiritual framing not only denies medical legitimacy to mental illness but also contributes to long-term neglect and abuse of patients. Even well-educated individuals often hold these beliefs, which underscores the deep societal penetration of such misconceptions.⁷⁸

(ii) Lack of Awareness

The general ignorance about mental health, both in society and in health care settings stigma. Mental illnesses are often misunderstood to be permanent, contagious, or a result of personal weakness. It is most especially misunderstood in African homes to simply be a phase or season. Healthcare workers, including nurses and general practitioners, often lack training in

⁷⁵ MA Subu, DF Wati and AY Nabeel, 'Types of Stigma Experienced by Patients with Mental Illness and Mental Health Nurses in Indonesia: A Qualitative Content Analysis', *International Journal of Mental Health Systems*, [2021] (15) (77).

⁷⁶ OA Abiodun, 'Pathways to Mental Health Care in Nigeria', [1995] available at <<https://pubmed.ncbi.nlm.nih.gov/7583485/>> accessed on 6 August 2025.

⁷⁷ *Ibid.*

⁷⁸ *Ibid* (n 349).

psychiatric care. This leads to inadequate or harmful responses in medical settings and sometimes denial of treatment altogether.⁷⁹ Proper awareness schemes on mental health can be set up to help society and various sector better understand mental health.

4.4.1. Manifestations of Stigma

Literature identifies multiple dimensions or types of mental health-related stigma, including self-stigma, public stigma, professional stigma, and institutional stigma. Self-stigma refers to negative attitudes of an individual to his/her own mental illness and is also referred to as internalized stigma⁸⁰. Self-stigma has been related to poor outcomes, such as failure to access treatment, disempowerment, reduced self-efficacy, and decreased quality of life.⁸¹

Public stigma refers to negative attitudes towards those with mental illness by held by the general public, often based on misconceptions, fear, and prejudice. Related to public stigma is perceived stigma which is defined as individual's beliefs about the attitudes of others towards mental illness. Research has demonstrated the significant impact of public stigma such as discrimination in workplaces and public agencies⁸². Professional stigma occurs when healthcare professionals hold stigmatizing attitudes toward their patients, which are often based on fear or misunderstandings of the causes and symptoms of mental illness, or when professionals themselves experience stigma from the public or other healthcare professionals because of their work and connection with stigmatized individuals.⁸³

⁷⁹ National Health Act 2014, ss. 20-23.

⁸⁰ PW Corrigan, K J Powell, & N Rusch, 'How Does Stigma Affect Work in People with Serious Mental Illnesses?', *Psychiatric Rehabilitation Journal*, [2012] (5) (35).

⁸¹ *Ibid* (n 348).

⁸² *Ibid* (n 349).

⁸³ MA Subu, DF Wati and AY Nabeel, 'Types of Stigma Experienced by Patients with Mental Illness and Mental Health Nurses in Indonesia: A Qualitative Content Analysis', *International Journal of Mental Health Systems*, [2021] (15) (77).

Finally, institutional stigma refers to an organization's policies or culture of negative attitudes and beliefs toward stigmatized individuals, such as those with mental health problems.⁸⁴

4.4.2 Discrimination in Societal Setting

Discrimination describes the unfair or prejudicial treatment of people based on their actual or perceived membership in groups or social categories such as ethnicity, gender, age, or sexual orientation. Discrimination and prejudice are key aspects of stigma.⁸⁵

Mental illness is still socially stigmatized, leading families to hide the existence of family members World Health Organization suffer from mental disorders. As such, some families choose to remain silent or hide, isolate, or shackle people with mental disorders. Many wonder this phenomenon occurs because of the stigma and discrimination that exists in society.⁸⁶

Mental health is a health area that has long been discriminated against and it needs to be supported by affirmative action. There is a considerable amount of advocacy work going on in the countries. The problem is that it is mostly ad hoc and on the occasions of mental health days or weeks. There is no evidence about the impact of such advocacy. Advocacy and anti-stigma activities at the country level need to be planned within a results-based framework with clear outcome measures. Mental health units are not powerful enough within many ministries of health and non-existent in others. They need to be established, strengthened and provided with budgets.⁸⁷

⁸⁴*Ibid.*

⁸⁵ E Christine, D Julia, and J Mata, 'The Immediate Effect of Discrimination on Mental Health: A Meta-Analytic Review of the Causal Evidence', [2023] available at <https://doi.org/10.23668/psycharchives.13933>. > accessed 6 August 2025.

⁸⁶ S Nelson, 'Discrimination of Persons with Mental Illness: Testing the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care in Indonesia', [2024] available at <https://doi.org/10.12688/f1000research.139319.1> > accessed on 6 August 2025.

⁸⁷ TY Mohammed, 'Mental health Challenges and Possible Solutions', [2018] available at <https://www.researchgate.net/publication/23996314> > accessed on 6 August 2025.

4.4.3 Inadequate Legal Protection and Enforcement

The burden for mental health disorder is very high with limited access to available and affordable mental health services in the country.⁸⁸

In Nigeria, many cases of mental health problems are being managed by psychiatrist (mainly consultants, residents and general physicians), nurses, social workers, occupational therapist, auxiliary staff on mental health, religious clerics and traditional care attendants leading to the diagnosis, treatment and rehabilitation of patients with mental health disorders. Patients receive care (inpatient/outpatient) and treatment in hospitals and majorly in their communities. The psychiatrists and other mental health specialists are mainly available at tertiary healthcare centres to review and treat complex cases.⁸⁹

Nigeria with over 190 million population, have fewer than 300 psychiatrist accounting for a ratio of about 700,000 of the population per psychiatrist, most of World Health Organization are urban based, and in view of poor knowledge of mental disorders at the primary health-care level, caring for people with mental illness is typically left to family members.⁹⁰

Furthermore, nine out of every ten doctors in Nigeria are seeking to leave the country and only eight neuropsychiatric hospitals are available in the entire country responsible for professional training of psychiatric doctors as well as managing patients with psychiatric disorders.⁹¹

In Nigeria, there is very limited and comprehensive mental health laws and policy, World Health Organization stresses that, “mental health legislation is necessary for protecting the rights of persons with mental disorders in institutional settings and in the community.”⁹²The

⁸⁸ YH Wada, R Linu, and others, ‘Mental health in Nigeria: A Neglected issue in Public Health’, *Science Direct Journal*, [2021] (2) (2).

⁸⁹*Ibid.*

⁹⁰*Ibid* (n 355).

⁹¹*Ibid* (n 347).

⁹²*Ibid* (n 354).

bottom up approach which starts from concrete measures in the hospitals (removing chains from mental health patients and improving hospital care), extends through homes and ends up with community level advocacy dealing with the invisible chains affecting the human rights of patients in general.⁹³

4.5 Challenges in Enforcing Mental Health Rights

A significant number of the individuals encounter notable obstacles in accessing requisite treatments, safeguarding their rights, securing rehabilitation services, or obtaining other essential support.⁹⁴ These challenges pertain to policy formation and enactment, financial allocation, research endeavours, educational initiatives, and the incorporation of mental healthcare within primary healthcare systems.⁹⁵

There is also a preponderance of adversity in Nigerian society, which regularly threatens Nigerians' mental health and well-being. Such adverse conditions include, among others, a high poverty rate, a high unemployment rate, economic and religious instability, traumatic events, human rights violations, and a deeply established belief in supernatural illness.⁹⁶ Some of these factors are;⁹⁷

1. Limited Funding: Nigeria's healthcare system is underfunded, with mental health receiving a fraction of the overall budget. Without dedicated resources, the ambitious goals of the Act remain aspirational.⁹⁸ According to the World Health Organisation, government spending on mental health in Nigeria accounts for barely 4% of all health

⁹³*Ibid*

⁹⁴ O Cheluchi, 'Stigma and Mental Health in Nigeria: Some Suggestions for Law Reform', *Journal of Law Policy and Globalization*, [2016] (55) (2).

⁹⁵*Ibid* (n 369).

⁹⁶*Ibid* (n 369).

⁹⁷ Web Master, 'Issues in Mental Health in Nigeria', [2025] available at <https://enugumetro.ng/2024/12/23/issues-in-mental-health-in-nigeria/#google_vignette> accessed on 6 August 2025.

⁹⁸*Ibid* (n 368).

spending. Psychosis, bipolar illness, and depression treatment are not covered by national health insurance or reimbursement programmes. The law failed to include mental health services in the country's insurance system.⁹⁹

2. **Insufficient Political Will and Enacted Policies:** Mental health has not been a top priority for policymakers in Nigeria. While the passage of the Act is a significant achievement, sustained political commitment is necessary to allocate resources and drive implementation.
3. **Cultural Barriers:** Deep-seated cultural beliefs and misconceptions about mental health continue to influence how society views and treats individuals with mental health conditions. Stigma often discourages people from seeking care.¹⁰⁰
4. **Fragmented Healthcare System:** The decentralized nature of Nigeria's healthcare system complicates uniform implementation of the Act. In their 2001 report on world health, the WHO recommended that mental health services be administered through the primary care system to increase social acceptance, broaden availability, and cut down on other expenses such as those associated with travel.¹⁰¹
5. **Lack of Awareness:** Many Nigerians, including healthcare providers, are unaware of the Act and its provisions. This knowledge gap hinders its enforcement and utilization.¹⁰²

4.6 Protection of Mental Health Rights.

⁹⁹*Ibid* (n 359).

¹⁰⁰*Ibid* (n 368).

¹⁰¹*Ibid* (n 376).

¹⁰²*Ibid* (n 378).

The judiciary plays a pivotal role in interpreting and enforcing mental health rights, while healthcare institutions bear the duty of ensuring these rights are respected in practice.

4.6.1 Accountability of Healthcare Institutions

Public bodies and government officials are primarily accountable for ensuring that people's Human rights are respected in society and this includes organisations such as the NHS and local authorities.¹⁰³

Mental health care practitioners must ensure that individuals are not denied treatment – for example, in relation to their age – and that treatment is appropriate to, and respectful of any protected characteristics – for example, providing non-English speakers with interpreters or acknowledging and respecting sexual orientation. Practitioners should aim to recognise those service users World Health Organization are particularly marginalised or may face extra barriers for example, refugees or asylum seekers or people with learning disabilities.¹⁰⁴

4.6.2 Role of the Judiciary in Protecting Mental Health Patients

The constitution particularly confers Jurisdiction on the State High Court to deal with matters pertaining to the enforcement and protection of the rights established in chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Section 46 provides that any individual whose rights pertaining to the provisions of Chapter IV are contravened may seek redress in the High Court.¹⁰⁵

This means that the High Court of a state is one major institution saddled with the responsibility of ensuring that the right to access justice is protected. This implies that the High Court of a

¹⁰³ Mental Welfare Commission Scotland, 'Human Rights in Mental Health Services' [2017] available at <<https://www.mwscot.org.uk>> accessed on 6 August 2025.

¹⁰⁴*Ibid* (n 382).

¹⁰⁵Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 45.

State has original jurisdiction, although this fact has been contested on the basis that the wordings of the Constitution may be interpreted to extend the original Jurisdiction to hear matters on Human rights to the Federal High court on the basis that both High courts are of concurrent jurisdiction.¹⁰⁶

The court, in the case of *Osunde & Anor v Baba*, construed the wordings of S 46 (2) as conferring original jurisdiction on the Federal High court to hear matters relating to the breach and enforcement of rights.¹⁰⁷ This underpins the highly relevant role of a State High Court and the Federal High court in the protection and maintenance of the right to a fair hearing and, by extension, the right to access to Justice. This role is actualized through the operation of the High courts in the exercise of their original jurisdiction over matters of fundamental rights. Also, other superior courts function in their appellate capacity to protect and maintain the right to a fair hearing and the right to access justice.¹⁰⁸

4.7 Comparisons with Other Developed and Developing Jurisdictions

The present Nigerian Mental Health Act is comparable with the extant Mental Health Legislation of our colonial master, Britain and some other countries, such as Canada, United States of America and even some African countries such as South Africa, Egypt and Kenya.¹⁰⁹ Key areas where Nigeria's current and proposed legislation diverge from best practices include provisions for involuntary admission and treatment, informed consent, and community integration.

¹⁰⁶ O OOlawunmi, 'Mental Health Challenges and Access to Justice in Nigeria', [2024] available at <<https://www.researchgate.net/publication/383979418>> accessed on 6 August 2025.

¹⁰⁷ *Osunde & Anor v Baba* [2014] LPELR – 23217 (CA).

¹⁰⁸ *Ibid* (n 377).

¹⁰⁹ AU Augustine, 'An Appraisal of Mental Health Legislations Vis-À-Vis Provisions of Mental Health Care In Nigeria', *Nnamdi Azikiwe University Journal*, [2023] (10) (2).

For example, section 117 of the Mental Act (England and Wales)¹¹⁰ places, a statutory duty on health and social services providers to provide after care services for patients World Health Organization have been discharged from detention, while Nigeria's framework does not provide for aftercare. It is important for Nigeria that mental health care nurses become advocates for mental health policy reforms to improve access, and that countries with similar challenges learn from each other.¹¹¹

¹¹⁰Mental Health Act, (England and Wales), s 117.

¹¹¹ IO Jack-Ide, ' A Comparative Study of Mental Health Services in Two African Countries: South Africa and Nigeria', *International Journal of Nursing and Midwifery*, [2012] (4) (4).

CHAPTER FIVE

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

The primary finding in this research is the fact that there is inadequate frameworks protecting mental health rights in Nigeria and there is a grave lack of judicial enforcement in courts.

(i) Inadequacy of Nigeria's Legal Framework for Mental Health Right

Although Nigeria has made progress with the enactment of the Mental Health Act 2021, significant gaps remain in legislative clarity, enforcement mechanisms, and institutional accountability. Ambiguous provisions, such as the vague standard for involuntary admission, leave room for abuse, while weak funding structures and poor oversight prevent the Act from being fully operational and enforced in Nigeria. It is also a great concern that the Mental Health Act is the only enactment providing for mental health rights in Nigeria, it is grossly inadequate, as with the evolving areas of society and mental health challenges arising each year, legislative actions should evolve as well on this area of mental health.

(ii) Weak Judicial and Institutional Enforcement of Mental Health Rights

The judiciary and healthcare institutions, though central to the realization of mental health rights, have played limited roles in ensuring effective protection. Judicial pronouncements on mental health rights are sparse, and where broader human rights protections under the Constitution or African Charter have been cited, they have not been applied directly to mental health contexts. Likewise, healthcare institutions often fail to uphold patient autonomy, dignity, and non-discrimination due to systemic stigma, lack of training, and inadequate regulatory oversight. Despite the provisions of the act on the protection of the rights of mental health patients, the enforcement in courts and judicial institutions and inadequate.

5.2 Recommendations

(i) Legislative Reform and Clarity

The National Assembly should amend the Mental Health Act 2021 to provide precise, procedural safeguards, and enforceable sanctions. Provisions on mental health should be expressly integrated into the National Health Act 2014 to guarantee parity between physical and mental healthcare.

Legal protection without effective enforcement remains symbolic. To ensure the rights of mental health patients are respected in practice, the Department of Mental Health Services created under the 2021 Act must be fully operationalised and adequately funded. This body should conduct routine inspections, monitor service delivery, and enforce compliance with patient rights provisions. Independent mental health oversight mechanisms, should be established with powers to investigate complaints, compel remedies, and impose sanctions on non-compliant facilities. The National Human Rights Commission should also be empowered to play a more active role in monitoring mental health institutions, producing annual reports on rights compliance, and intervening in cases of abuse or neglect.

(ii) Judicial Capacity Reforms.

The judiciary is critical in interpreting and enforcing mental health rights. Judges, magistrates, and legal practitioners must be trained in mental health law, disability rights, and relevant human rights principles to ensure consistent and rights-based interpretation of the law. Specialised mental health tribunals or designated high court divisions should be created to handle mental health-related cases such as involuntary admission disputes, institutional abuses, and treatment rights violations. International organisations and local

philanthropies could collaborate on training programs for healthcare workers and medical practitioners. More cases should be decided on the rights of mental health patients.

(iii) Provision for Mental Health Personal Representatives

This is for circumstances where the mental health patient is not in a lucid state to make decisions for themselves. This should be included in legislative clarity and reforms.

5.3 Contributions to Knowledge

This research contributes to knowledge in the following ways:

(i) Appraisal of Mental Health Patient Rights under Nigerian Law

The study has provided a detailed appraisal of the rights of mental health patients under domestic frameworks, especially the Mental Health Act 2021, Constitution of 1999, National Health Act 2014, Discrimination Against Persons with Disabilities Act 2018, and the VAPP Act. By examining these laws side by side, the work clarifies both the rights available and the gaps in their protection.

(ii) Identification of the Absence of Specific Rights

While general human rights provisions exist, this study shows that Nigerian law still lacks clear, specific rights for mental health patients, such as the right to community-based care, judicial review of involuntary admission, or protection against degrading practices in informal healing centres.

(iii) Linking Enforcement Failures to Institutions

The research highlights how enforcement of rights is weakened not only by legislative ambiguity but also by the failure of the judiciary and healthcare institutions to actively uphold

patient autonomy, dignity, and non-discrimination. This contribution redirects focus from statutory gaps alone to institutional responsibility.

(iv) Role of the Judiciary

There is also insufficient scholarship on the role of the judiciary and healthcare institutions in enforcing these rights, as well as the lack of focused research on gender-specific dimensions of mental health protection.

(v) Limited empirical research

There is limited data-driven research on how existing laws and policies actually work in practice, especially in terms of funding, staffing, and service delivery.

5.4 Areas for Further Studies

In the course of this research, it became clear that while significant scholarly work exists on the broad issues of mental health rights in Nigeria, there remain areas that require deeper and more targeted inquiry.

(i) First, there is a need for empirical studies on the implementation of the Mental Health Act 2021. Most existing works discuss the Act in theory, but little has been done to investigate how its provisions are being applied in practice. The effectiveness of the act depends on how it is being enforced across different levels of society. At present, most scholarly works discuss the Act from a doctrinal or theoretical perspective, analysing its provisions without examining whether they are applied in practice.

(ii) Future research should therefore adopt empirical and socio-legal methods to evaluate how the Act is functioning in reality. This could involve fieldwork in

federal and state psychiatric facilities, primary healthcare centres, and community settings to determine whether the rights guaranteed under the Act, such as informed consent, freedom from discrimination, and access to community-based care are being respected.

- (iii) Particular attention should be paid to rural communities, where traditional healing homes and religious institutions still dominate mental health care, often in violation of patients' rights.
- (iv) Comparative research with other jurisdictions is should be conducted more intensively. Jurisdictions such as South Africa, Kenya, and the United Kingdom.

5.5 Conclusion

The protection and enforcement of the rights of mental health patients in Nigeria has made development over the years. However, across the chapters, it has been shown that while Nigeria has taken commendable steps in recognising these rights particularly through the enactment of the Mental Health Act 2021, there remains a wide gulf between the law in theory and the reality on the ground. General guarantees of dignity, liberty, and equality under the Constitution, regional instruments like the African Charter, and international conventions, provide a normative foundation. However, they lack clear articulation of rights specific to the needs of mental health patients, leaving this vulnerable group inadequately protected.

The findings of this research reveal that stigma, discrimination, and institutional neglect continue to undermine the dignity and autonomy of mental health patients, while outdated practices persist in many healthcare and community settings. The judiciary and healthcare institutions, which should be at the forefront of enforcement, have remained largely passive. Thus, the rights of mental health patients exist more on paper than in practice.

This project therefore concludes that the future of mental health rights in Nigeria lies in a two-fold reform; first, through legislative precision, by codifying clear and enforceable patient-specific rights such as the right to informed consent, protection from involuntary detention without review, and access to community-based care; and second, through judicial activism and institutional accountability, ensuring that these rights are not only declared but actively enforced.

In the end, protecting the rights of mental health patients is not merely a question of legal drafting but of human dignity and social justice. For Nigeria to fulfil its constitutional obligations and international commitments, it must ensure that mental health patients are recognised, respected, and protected as full rights-bearing citizens.

BIBLIOGRAPHY

Books

- Ayodeji A, *Mental Health Law in Nigeria* (Pinnacle Publishers, 2019).
- Bose OA, *Protecting the Vulnerable: Legal Framework for Mental Healthcare in Nigeria* (University Press, 2018).
- Chidi OM, *Human Rights and Mental Disability in Nigeria* (Sunrise Publications, 2022).
- Chinwe EU, *Mental Health Rights in Nigeria* (Legal Press, 2023).
- Fatima IZ, *Mental Health Law and Policy in Nigeria: A Critical Analysis* (Heritage Books, 2024).
- Folake A, *Human Rights and Mental Health in Africa* (Hope Publishers, 2020).
- Funmi A, *Sociology of Mental Health in Nigeria* (Social Press, 2021).
- Gostin L & Lance G, *The Human Rights of Persons with Mental Disabilities: a global Perspective on the application of Human Rights Principles to Mental Health*, (Maryland Law Review 2004).
- Manisuli S, *the African Regional Human Rights System: 30 Years after the African Charter on Human and Peoples' Rights* (Martinus Nijhoff Publishers 2012).
- Nwankwo O, *Identifying Nigeria's Commitment to the Convention on the Elimination of all forms of Discrimination against Women*, (Fourth Dimension Publisher. 2022).
- Oluwole CA, *Law and Mental Health in Nigeria: Issues and Challenges* (Justice Publishers, 2020).
- Temitope B, *Nigerian Health Law and Policy* (Legal Minds Press, 2021).
- Temitope B, *Social Dynamics in Nigeria* (Unity Press, 2020).
- Tunde FO, *Human Rights Law in Nigeria* (University Press, 2020).
- Udu EA, *Human Rights in Africa* (Mbeyi& Associates (Nig). Ltd, 2022).
- Uzoamaka O, *Medical Law and Ethics in Nigeria* (Health Press, 2022).
- Victor A, 'The impact of the African Charter and Women's Protocol in Nigeria' in *Centre for Human Rights the impact of the African Charter and Women's Protocol in selected African States* (Pretoria University Law Press 2012).

Journal Articles

Abubakar SA and Francis AO, 'National Mental Health Act 2013 Assessment: A Policy Towards Modern International Standards', *American Academic & Scholarly Research Journal*, [2014] (27) (5).

Ahmed KM, 'The Legal Capacity of Persons with Mental Illness in Nigeria', *Nigerian Journal of Human Rights Law* [2019] (7) (1).

Aisha B, 'Labelling and Mental Health Policy', *Journal of African Health Studies* [2023] (11) (2).

Amaka N, 'Human Rights and Mental Health in Nigeria', *Journal of African Human Rights* [2022] (16) (2).

Amaka N, 'Stigma and Mental Health Rights in Nigeria', *Journal of African Human Rights* [2022] (16) (3).

Andrew WH, 'Mental Health Legislation and Involuntary Commitment in Nigeria: A Call for Reform' *Washington University Global Studies Law Review*, [2011] (9) (3).

Anyebe E, 'The Role of Non-Governmental Organisations (NGOs) in Community-based Mental Health Services in Northern Nigeria: Prospects and Challenges', *Texila International Journal*, [2021] (1) (1).

Anyebe EA, Olisa VO, and Nuhu FT, 'Mental Health Problems in Northern Nigerian Communities – An Exploratory Study', *Journal of Physical and Life Sciences*, [2017] (2).

Augustine AU, Anthony E, 'An Appraisal of Mental Health Legislations Vis-À-Vis Provisions of Mental Health Care in Nigeria', *Unizik Journal of Commercial and Property Law*, [2023] (10) (2).

Babatunde AS & Aisha UL, 'Guardianship and Consent in Mental Healthcare: A Nigerian Perspective', *International Journal of Mental Health and Law* [2021] (24) (4).

Bachmann S, 'Epidemiology of Suicide and the Psychiatric Perspective', *International Journal Environmental on Public Health*, [2018] (15).

Callahan D, 'The WHO Definition of Health', *Hastings Cent Report*, [1973] 1(2).

Cheluchi O, 'Stigma and Mental Health in Nigeria: Some Suggestions for Law Reform', *Journal of Law, Policy and Globalization* [2016] (55).

- Chinedu O, 'Mental Health Policy Gaps in Nigeria', *African Journal of Public Health* [2022](15) (2).
- Chukwuemeka E, 'Inclusion in Nigerian Mental Health Policy', *Journal of African Public Health* [2021] (14) (1).
- Corrigan PW, Powell KJ, & Rusch N, 'How Does Stigma Affect Work in People with Serious Mental Illnesses?', *Psychiatric Rehabilitation Journal*, [2012] (5) (35).
- Dragne L, 'The Right to Life – A Fundamental Human Right. Social Science Debate', *International Journal of Law* [2013] 2(2).
- Ekhaton EO, 'The Impact of the African Charter on Human And Peoples' Rights on Domestic Law: A Case Study Of Nigeria', [2015] (1) (3).
- Funmi O, 'Ethics in Nigerian Mental Health Care', *Journal of African Medical Ethics* [2023] (12) (1).
- Gureje O, 'Revising the National Mental Health Policy for Nigeria', *Archives of Ibadan Medicine*, [2003] 4(1).
- Hani RK, 'The 21st Century Psychiatrists Need to Re-establish Their Identity as Healers of the Human Psyche and not just Pill Pushers', *Contemporary Behavioural Health Care Journal* [2016] (2) (1).
- Jack-Ide IO, ' A Comparative Study of Mental Health Services in Two African Countries: South Africa and Nigeria', *International Journal of Nursing and Midwifery*, [2012] (4) (4).
- Jane W, 'Managing Mental Incapacity in the 20th Century: A History of the Court of Protection of England & Wales', *International Journal of Law and Psychiatry*, [2020] (10).
- Kathleen RM and Robert GS, 'Report on the 20 Psy 00 Joint Committee on Health Education and Promotion Terminology', *Journal of School of Health*, [2002] (1).
- Larson JS, 'The Conceptualization of Health', *Medical Care Research Journal*, [1999] 2(2).
- Lee E and Horndup DJ, 'The Right to Health: An Interview with Professor Paul Hunt', (*Essex Human Rights Review* 2005).
- Ngozi E, 'Social Exclusion and Mental Health Stigma', *African Journal of Social Work* [2021] (13) (2).
- Ngozi E, 'Stigma and Mental Health in Nigeria', *African Journal of Social Work* [2021] (13) (1)

Nkechi O, 'Social Exclusion and Mental Health', *African Journal of Sociology* [2022] (15)(3).

Nnamdi O, 'the African Charter on Human and Peoples Right as Compatible with Despotism: The Nigerian Experience', *University of Benin Law Journal* [2005] 8(1).

Okafor IP, Oyewale DV, and others, 'Role of Traditional Beliefs in the Low Dwelling Women in Western Nigeria', *Afr J Prim Health Care Fam Med journal*, [2022] (1) (14).

Onomrerhinor FA, 'A Re-Examination of The Requirement of Domestication of Treaties in Nigeria', *NnamdiAzikiwe University Journal of International Law and Jurisprudence*, [2016] 7(2).

Penny W, 'The Right to Health: The Convention on the Rights of Persons with Disabilities', *Alternative Law Journal*, [2010] (2) (35).

Raphael O, Nnenna MO, and others, 'Situation Report on Suicide in Nigeria', *Journal of Psychiatry* [2020] (5).

Stella NI, 'Access to Justice and Mental Health: Examining the Nigerian Context', *African Journal of Law and Human Rights* [2023] (5) (3).

Subu MA, Wati DF and Nabeel AY, 'Types of Stigma Experienced by Patients with Mental Illness and Mental Health Nurses in Indonesia: A Qualitative Content Analysis', *International Journal of Mental Health Systems*, [2021] (15) (77).

Ugochukwu UP, 'Policy Analysis on Nigerian Lunacy Act (1958): The need for a New Legislaion', *Journal of Psychiatry* [2015] (1) (19).

Wada YH, Linu R, and others, 'Mental health in Nigeria: A Neglected issue in Public Health', *Science Direct Journal*, [2021] (2) (2).

Online/Internet Sources

Abiodun OA, ' Pathways to Mental Health Care in Nigeria', [1995], available at <https://pubmed.ncbi.nlm.nih.gov/7583485/>, accessed 12 July 2025

Adegboyega OO, Oguwanle A, ' Mental Health Legislation In Nigeria: Current Leanings And Future Yearnings', [2012] available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC6735074/> accessed on 12 July 2025.

Akinsola A, Akintayo D, Ogunwobi O and others, 'Mental Health and Disability Law in Nigeria: A Call for Affirmative Interpretation', [2022] available at <https://www.researchgate.net/publication/366237859> accessed on 12 July 2025.

Association of Psychiatrists in Nigeria, 'Home', [2024] available at <http://www.apn.org.ng/#home> accessed on 12 July 2025.

Atoyebi OM, 'A Critical Examination of the Rights of Persons with Mental Health Illness in Nigeria', [2025] available at <https://omaplex.com.ng/a-critical-examination-of-the-rights-of-persons-with-mental-health-illness-in-nigeria/> accessed on 12 July 2025.

Bangboye OA, Hassan IA and others, 'Towards Improving Pharmaceutical Policy Practice', [2021] available at <https://doi.org/10.1186/s40545-021-00316-9> accessed on 12 July 2025.

Carla A, 'International Law, Mental Health and Human Rights', [2014] available at <https://klau.nd.edu> accessed on 12 July 2025.

Carla D, 'Mental Health and Human Rights' [2014] available at <https://klau.nd.edu> accessed on 14 July 2025

Centre for Health, Ethics, Law and Development, 'Rights of Mental Health Patients in Nigeria: National Mental Health Act 2021' [2025] available at <https://cheld.org/rights-of-mental-health-patients-in-nigeria-national-mental-health-act-2021/> accessed on 28 July 2025.

Cheluchi O, 'Reforming Mental Health Legislation In Nigeria', [2021] available at <https://commonwealthfoundation.com/reforming-mental-health-legislation-in-nigeria/> accessed on 15 July 2025.

Christine E, Julia D, and Mata J, 'The Immediate Effect of Discrimination on Mental Health: A Meta-Analytic Review of the Causal Evidence', [2023] available at <https://doi.org/10.23668/psycharchives.13933> accessed on 12 July 2025.

CVLT Nation, 'Horrible Psychiatric Treatments From The Age Of Reason', [2020] available at <https://cvltnation.com/horrifying-psychiatric-treatments-from-the-age-of-reason/> accessed on 25 July 2025

David B, 'An Ethic for Health Promotion: Rethinking the Sources of Human Wellbeing', [2002] available at https://www.researchgate.net/publication/31180068_An_Ethic_for_Health_Promotion_Rethinking_the_Sources_of_Human_Wellbeing_Professor_David_Buchanan accessed on 12 July 2025.

Eke O, 'Non-Domestication of Treaties in Nigeria as a Breach of International Obligations', [2020] available at <https://www.mondaq.com/nigeria/international-trade-amp->

[investment/1013006/nondomestication-of-treaties-in-nigeria-as-a-breach-of-international-obligations](#) accessed on 2 September 2025.

Fajaolu OO, ‘An Indepth Review of Mental Health Legislations and Policies in Nigeria: A Case for Immediate Law Reform in Line with International Best Practices’, [2021] available at <https://ssrn.com/abstract=4079665> accessed on 29 July 2025.

Forbes, ‘It’s Time To Stop Even Casually Misusing Disability Words’ [2021] available at <https://www.forbes.com/sites/andrewpulang/2021/02/20/its-time-to-stop-even-casually-misusing-disabilitywords/?sh=7d7e69347d4e> accessed on 30 August 2025.

Gabriel OB, ‘Mental Health: The Plight of Persons with Unsound Mind In Nigeria’, [2022] available at <https://ssrn.com/abstract=4055617> accessed on 14 July 2025.

Garrat K, ‘Reforming the Mental Health Act’, [2023] available at <https://commonslibrary.parliament.uk/research-briefings/cbp-9132> accessed on 18 July 2025.

Gostin L and Gable L, ‘The Human Rights of Persons with Mental Disabilities: A Global Perspective on the Application of Human Rights Principles to Mental Health’, [2004] available at https://www.researchgate.net/publication/8159749_The_Human_Rights_of_Persons_with_Mental_Disabilities_A_Global_Perspective_on_the_Application_of_Human_Rights_Principles_to_Mental_Health accessed on 28 August 2025.

John M, Nucha GS, ‘Fundamental Human Rights’, [2023] available at https://www.researchgatenet/publication/369762562_Fundamental_Human_Rights accessed on 14 July 2025.

Lawal S, ‘Mental Health and the Law in Nigeria; Know your Rights’, [2025] available at <https://www.lawfmng.com/2025/05/12/mental-health-and-the-law-in-nigeria-know-your-rights/> accessed on 28 July 2025.

Macdanold J, ‘Do Children Have a Right to Mental Health’ [2017] available at <https://www.swansea.ac.uk/media/2017-Observatory-Annual-Lecture-MR-JUSTICE-MACDONALD.pdf> accessed on 29 July 2025

Machteld H, Lawrence GW, Henk S and others, ‘How Should We Define Health’, [2011] available at https://www.researchgatenet/publication/51523299_How_Should_We_Define_Health/references accessed on 12 July 2025.

Maryam O, Appraisal of the Legal Framework on Mental Health in Nigeria, [2023] available at <https://www.researchgate.net/publication374259786> accessed on 16 July 2025.

Mental Welfare Commission Scotland, 'Human Rights in Mental Health Services' [2017] available at <https://www.mwscot.org.uk> accessed on 15 July 2025.

Mentally Aware Nigeria Initiative (MANI), 'Our Work', [2016] available at <https://www.mentallyaware.org> accessed on 14 July 2025.

Mohammed TY, 'Mental health Challenges and Possible Solutions', [2018] available at <https://www.researchgate.net/publication/23996314> accessed on 14 July 2025.

Naija Scholar, 'Understanding Mental Health Laws in Nigeria', [2004] available at https://disciplines.ng/mental-health-laws/#google_vignette 30 August 2025.

Nelson S, 'Discrimination of Persons with Mental Illness: Testing The Principles for The Protection of Persons with Mental Illness And The Improvement of Mental Health Care In Indonesia', [2024] <https://doi.org/10.12688/f1000research.139319.1> accessed on 19 August 2025.

Nigeria Health Watch, 'NGOS partner to Increase Accountability in the Delivery of PHC Services in Nigeria', [2019] available at <https://nigeriahealthwatch.com/ngos-partner-toincrease-accountability-in-the-delivery-of-phcservices-in-nigeria> accessed on 14 August 2025.

Nigeria Health Watch, 'Nigeria: People With Mental Health Conditions Chained, Abused', [2019] 12 July 2025 <https://www.hrw.org/news/2019/11/11/nigeria-people-mental-health-conditions-chained-abused>

Olajide FM, 'Appraisal of the Legal Framework on Mental Health in Nigeria' [2023] available at <https://www.researchgate.net/publication/374259786> accessed on 14 July 2025.

Olawunmi OO, 'Mental Health Challenges and Access to Justice in Nigeria' [2024] available at <https://www.researchgate.net/publication/383979418> accessed on 12 July 2025

Opawoye O, 'A Review of the Metal Health Act', [2023] available at www.jee.africa accessed on 13 July 2025.

Senate of the Federal Republic of Nigeria, 'Nigeria discrimination against persons with disabilities (prohibition) act 2018 explanatory memorandum' [2019] available at https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/11/Nigeria_Discrimination-Against-Persons-with-Disabilities-Prohibition-Act-2018 accessed on 10 July 2025.

Smith R, 'The end of disease and the beginning of health', [2008] available at <http://blogs.bmj.com/bmj/2008/07/08/richard-smith-the-end-of-disease-and-the-beginning-ofhealth/> accessed on 14 July 2025.

Sunrise House Treatment Centre ‘The History & Evolution of Mental Health & Treatment’, [2024] available at <https://sunrisehouse.com/research/history-evolution-mental-health-treatment/> accessed on 14 July 2025.

Takabayashi A, ‘Surviving the Lunacy Act of 1890: English Psychiatrists and Professional Development During the Early Twentieth Century’, [2017] available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5426304> accessed on 26 August 2025.

United Nations General Assembly, ‘Declaration on the Elimination of Violence Against Women’, [1993] available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women> accessed on 18 July 2025.

United Nations, ‘Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care’, [1991] available at <https://research.un.org/en/docs/ga/quick/regular/46> accessed on 15 July 2025.

United Nations, ‘Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care’, [1999] available at <http://www.unhchr.ch/html/menu3/b/68.htm> accessed on 15 August 2025.

Usang MA, ‘Why the Child's Rights Act still doesn't apply throughout Nigeria’, [2020] available at <https://www.google.com/amp/s/theconversation.com/amp/why-the-childs-rights-act-still-doesnt-applythroughout-nigeria-145345> accessed on 10 August 2025.

Web Master, ‘Issues in Mental Health in Nigeria’, [2025] available at https://enugumetro.ng/2024/12/23/issues-in-mental-health-in-nigeria/#google_vignette accessed on 15 July 2025.

World Health Organisation, ‘Mental health: Promoting and Protecting Human Rights’, [2023] available at <https://www.WorldHealthOrganization.int/news-room/questions-and-answers/item/mental-health-promoting-and-protecting-human-rights> accessed on 13 July 2025.

World Health Organisation, ‘Mental Health, Human Rights and Legislation: Guidance and Practice’, [2023] available at 28 July 2025 <<http://apps.WorldHealthOrganization.int/iris.>> accessed on 15 July 2025.

World Health Organisation, ‘Preamble to the Constitution of WHO as adopted by the International Health Conference’, [1946] available at <https://www.WorldHealthOrganization.int/about/governance/constitution> accessed on 12 July 2025

World Health Organization, 'Mental Disorders',[2023] available at <https://www.WorldHealthOrganization.int/news-room/factsheets/detail/mental-disorders>.